OIL AND THE MEXICAN REVOLUTION

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OIL AND THE MEXICAN REVOLUTION

DISSERTATION

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By

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PREFACE

The study of recent Mexican history soon discloses that the major forces shaping that history were oftentimes external and that much of the effort of Mexico in the latest generation has been directed toward the attainment of the goal of complete sovereign independence. If the Mexican revolutionaries did not begin with that objective, they soon discovered that in reality there could be no revolution without freedom from foreign interference. The story of Mexico's struggle to free herself from foreign domination of her oil industry is the principal aspect of the revolution which I have studied here. Since, however, the oil industry in Mexico could call on resources of great weight--economic, legal, and political--as it fought to defend itself against the Mexican revolution, I have found it necessary to try to inter-relate that fact with the particular element of the problem which was the direct object of this study.

Fundamentally Mexico's problem seems to have been the accomplishment of a revolution in the economic sphere. Her method was to revise her basic law and then enforce it as well as she dared in the face of internal poverty and external interference. The tenacity of Mexico in clinging to her objective throughout a generation of tenative advance and humiliating retreat is the most striking fact that emerges from a study of recent Mexican history. Mexico played something of the role of a David hurling stones for a generation at a Phoenix-like Goliath--the interna-

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tional oil industry--who would not be slain and who, when wounded, was succored by the great powers. The surprising development was that under the circumstances Goliath was ever dealt a final blow.

To study the problem of the Mexican revolution as it tried to work its way in the economic field, in particular in the oil industry, requires recognition of the fact that the problem was an international one of significance to all countries, for it involved the basic issues raised by economic imperialism supported by great powers against the revolution of a weak country. An examination of recent Mexican history predicated on that thesis is the subject of this dissertation.

I should like to acknowledge my indebtedness to Professor Charles W. Hackett for his supervisory work in connection with this study; to Professor W. J. Hammond for his assistance and advice; to Professor Paul Dinkins for direction in the use of the Bibliothèque Nationale and the library of the British Museum; to Mr. Don Campbell for his aid in my use of the library of the United States Embassy in Mexico City; to Mrs. Avis Hadden Hosemann for her technical assistance; and to the University of Texas for making possible a year of study in Mexico.

Merrill Rippy

Austin, Texas

...the international validity of domestic statutes on the subject of land and petroleum, the juridical condition of aliens, and the state's international responsibility in general ... (involve) the dominant theme of the harmony between the state and the international community ... (and) breathe the essence of our national history which, looked at from a certain point of view, is the record of the international claims brought against us. --Antonio Gómez Robledo

The oil question ... makes a very nice working model of a modern international-economic problem. It has practically all the features of the larger problems that are disturbing our lives and may be examined conveniently in the large, but not overwhelming, volume of conflicting propaganda that has been issued by the opposing sides. --Evelyn Waugh

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CHAPTER I

THE SPANISH HERITAGE IN MEXICAN MINERAL LAW

Virtually all defenders of the policy of the Mexican government in regard to subsoil mineral wealth of the country have begun their defense with a reference to the Mexican heritage from Spanish law which has been held to justify the Mexican contention that the sovereignty of the subsoil rests in the nation. If, it has been said, in the United States and England possession derived from conquest, in the one case over the Indians and in the other by the Normans, in Mexico property originated from Spanish grants in which from the first the property of the subsoil was a patrimony of the king that was not granted with the surface.[1] In Spain, under the law of

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[1] Manuel de la Peña, Estudio Jurídico, Político, y Económico sobre el Artículo 27 Constitucional, 52-53. Hereafter cited as De la Peña, Estudio Jurídico, Político, y Económico.

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the partida, the property of the mines was so vested in the king that they were held not to pass with a grant of land even if not specifically excepted, and when included in the grant were held only during the life of the king making the gift, having to be confirmed by his successors.[2] This prac-

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[2] Francis Xavier de Gamboa, Commentaries on the Mining Ordinances of Spain: Dedicated to His Catholic Majesty Charles III, translated by Richard Heathfield, I, 17. Hereafter cited as Xavier de Gamboa, Commentaries.

tice in Spanish legal history apparently was first codified in the Ordenamiento Real of the collection of Castille in which Alphonso XI in the early fourteenth century decreed that all mines of any metal and their produce were property of the crown and were not to be worked without license or grant.[3]

[3] Ibid., I, 17-18.

Don Juan I in 1387 granted owners of property the right to exploit their subsoil wealth freely so long as two thirds of the wealth removed went to the crown.[4] Don Carlos, December

[4] Manuel de la Peña, El Dominio Directo del Soberano en las Minas de México y Génesis de la Legislación Petrolera Mexicana, I, 16. Hereafter cited as De la Peña, El Dominio Directo.

19, 1526, issued a decree for the Indies, later reaffirmed by Philip II on June 19, 1568, which permitted all Spaniards and Indians to take out gold, silver, or other metals from mines which they should discover and to hold and work such mines freely, having given an account to the governor of the area and to the royal officers.[5] Philip II on two occasions,

[5] H. W. Halleck (ed.), A Collection of Mining Laws of Spain and Mexico, 130, quoting decrees of Don Carlos, December 19, 1526, and of June 19, 1568.

April 5, 1563, and March 6, 1575, declared that Indians should

be able to discover, hold, and work freely, as Spaniards, mines of gold, silver, or other materials.[6]

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[6] Ibid., 138-139, quoting orders of Philip II.

Philip II in 1556 issued a royal cédula declaring that without prejudicing the royal dominion, radical and direct, over mines and minerals, the crown granted the right of free search and exploitation of the metals gold, silver, or any other, but in 1559 he issued another law clarifying the crown's rights in which he declared reduced, resumininos, and incorporated in the king, the crown, and the royal patrimony all the gold and silver of the kingdoms wherever they might be found.[7] All grants were revoked and annulled and were de-

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[7] De la Peña, El Dominio Directo, I, 18.

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clared henceforth a part of the royal patrimony except for those mines of gold and silver in actual operation before the decrees were issued, and persons deprived of such grants were to have one year to present claims for indemnification.[8]

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[8] Ibid., I, 19.

However, any subject was given the right to search for minerals of gold and silver in either public or private lands, under

license from the king.[9] It was not until 1578 that Philip II

[9] Ibid.

felt it necessary to clarify title to lands in the New World by issuing a decree emphasizing that the soil and land of the Indies belonged to the royal patrimony and to the crown with the exception of grants conceded by the kings preceding Philip or by himself and that lands possessed without just title were to be surrendered to the crown.[10] This affirmation of the

[10] De la Peña, Estudio Jurídico, Político, y Económico, 10. De la Peña who has written extensively on the legal aspect of the question of subsoil ownership maintained that this declaration of Philip II was the clearest statement of the right of eminent domain of the state upon its territory and that it served as the base not only for the law of 1783 but for Article 72 of the constitution of 1857 and for Article 27 of the constitution of 1917.

crown's property in the New World was followed by a decree of Philip II in Madrid January 10, 1589, which declared:[11]

> We declare that Indians may be ordered to go to the Mines, provided there be no change of climate to injure their health, they having religious instruction and courts to protect them, provisions to support them, good pay for labor, and hospitals where those who get sick may be attended to and taken care of, and the labor be moderate, and there be an inspector to take care that the foregoing be observed: and with respect to the payments for religious instruction and for courts, they shall be at the expense of the Miners, as the distribution of the Indians is made for their benefit; and they shall also pay the necessary expenses of taking care of the sick.

[11] Halleck (ed.), A Collection of Mining Laws of Spain and Mexico, 149-150, quoting decree of Philip II. This decree was particularly interesting in the light of the social service demanded by the workers in the Mexican oil industry in 1936. See below, Chapter X.

The ordinance concerning mining issued by Philip II on August 22, 1584, first repealed all previous conflicting edicts and then granted in property to all persons, even foreigners, the mines of silver which they might work or discover, under the condition of payment of a royalty to the government, varying according to the silver content of the ore; property in gold mines was granted on the condition of the payment of one half the produce regardless of ore content; and similar conditions were applied to mines of lead, antimony, or copper. All persons were enabled freely to search in all the Spanish kingdoms for mines of gold, silver, or other metals in fields, woods, vacant places, ejidos, or dehesas, whether the land belonged to the crown, to pueblos, or to private persons, but discoveries were to be declared and registered before the Justicia de Minas within twenty days after finding. Old claims were to be registered within two months or forfeited.[12] Don

[12] Ibid., 69-77, quoting ordinance of Philip II.

Philip III from Valladolid on November 26, 1602, issued the following declaration of significance in regard to the Spanish view of the application of Spanish law in the Indies:[13]

> The Viceroys will cause to be observed in the Indies, so far as expedient, the laws of these kingdoms respecting Mines. The Viceroys of the Indies will consult with intelligent persons who have experience in the laws of these kingdoms of Castille, respecting matters of Mines; and, where they are found to be suitable, they will cause them to be observed, enforced, and executed, in all those kingdoms, where they may not be opposed to what shall have been specially provided for each province....

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[13] Halleck (ed.), A Collection of Mining Laws of Spain and Mexico, 128, quoting order of Philip III at Valladolid.

Clearly the Spanish crown solidified its dominion over the lands of the kingdom and the Indies, surface and subsoil, with metals in the subsoil specifically placed under the power of the crown.

With all the declarations concerning mining property and the crown's relation to it, both in the Indies and within Spain, still the mining industry declined and according to a decree of Philip IV, June 18, 1629, the drop in production was due to the fact that persons were being permitted to suspend operations despite the law which allowed mines not worked for four months to be called abandoned and therefore open to denunciation by third parties; thereafter the decree ordered the law to be strictly enforced.[14] In the New World, an in-

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[14] Ibid., 134.

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teresting decree of Don Luis Enríquez de Guzmán, Conde de Alva,

viceroy of New Spain, was issued July 5, 1651, in Mexico and emphasized that the rights of the Spanish crown in the gold and silver taken from the mines of New Spain had been secured from the first by law but the law, complained Don Luis, was being violated.[15]

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[15] Nuevas Leyes y Ordenanzas, Hechas por Su Magestad del Rey Don Filipe Nuestro Señor, Cerca de la Forma Que Se Ha De Tener En Estos Reynos, en el Descubrimiento, Labor, y Beneficio de las Minas de Oro, Plata, Açogue, y Otros Metales. Y con la Parte Que Se Ha De Acudir á Su Magestad, y la Que Han de Auer los Descubridores y Beneficiadores Dellas. Que con Orden Y Mandato de la Real Junta de Minas de Estos Reynos, y a Expensa de Don Juan de Oñate, Adelantado del Nuevo México, Hizo Imprimir Andrés de Canasquilla, Secretario del Dicho Adelantado, 1.

The royal order of 1754 illustrated further the Spanish crown's view of property in the Indies, for the decree required that holders of titles to land pronounce their titles and have them confirmed; land holdings in excess of the area granted by the title were to be paid for and then to be confirmed by the granting of titles to full possession with dominion over land and water.[16] To encourage mining indus-

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[16] Standard Oil Company (N.J.), Present Status of the Mexican Oil "Expropriations," 1940, p. 132. Hereafter cited as Standard Oil of New Jersey, Present Status.

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tries in New Spain a circular was issued in Mexico on September 2, 1785, which exempted from excise duties all tools,

utensils, and supplies used directly in the working of mines, reducing ores, and draining mines.[17]

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[17] Halleck (ed.), A Collection of Mining Laws of Spain and Mexico, 317, quoting circular of September 2, 1785.

Not until Carlos III issued his decrees of May 20 and August 15, 1780, concerning coal did there begin to arise a distinction between metallic and non-metallic minerals in Spanish subsoil property. The decrees of 1780 as a matter of fact did not alter the nature of the crown's property over the subsoil but they distinguished coal from the metals. According to the decrees:[18]

> Considering the abundance of Mines of mineral coal (carbón de piedra) in these dominions, and the great advantages which may result to my subjects from working them on account of the scarcity of forests, and the increased consumption of firewood ... coal, for this reason, being reckoned among the articles of prime necessity; and desiring the encouragement and extension of these useful establishments, I have granted, generally (por punto general), and for the term of twenty years, as well as those interested in the mineral coal of Villanueva del Rio, as to all others of my subjects who desire to work other Mines of this kind, in other Pueblos and provinces of these kingdoms, the following favors and franchises:
>
> Art. 1. That no person shall impede or prevent the said parties interested in the coal ... from making the examination works, and pits, which they may find expedient ... agreeably to the laws and ordinances of Mines; without any other difference than that they shall not be subject to the duty of one fifth, tenth, thirtieth, or any other, which is usually required by the Royal Treasury, in metallic Mines....
>
> Art. 10. When the first discoverers and workers of these Mines find it expedient to admit into their partnership any other persons interested, they may do so; any

one of them having also the right to cede, sell, or alienate the share which he may have in the partnership, to any person or persons he may please, either during his life or at his death....

Art. 14. Finally ... if the said parties interested in the mines of mineral coal of Villanueva del Río, and any others who may work other Mines of this class which may be discovered, shall cease working them for the term of six months, this not resulting from an extraordinary accident ... the right which they may have acquired in them shall be considered as terminated, and that it shall pass to others who may wish to work them.

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[18] Halleck (ed.), A Collection of Mining Laws of Spain and Mexico, 181-186, quoting decrees of Carlos III, May 20 and August 15, 1780.

The ordinance plainly applied only to Spain, a point of some significance in the light of two pieces of legislation which succeeded it. The first of these was the Ordenanzas de Aranjuez issued by Carlos III, May 22, 1783, which set up the first mining law exclusively ordained for Mexico and which remained in effect in Mexico until 1884. According to the Ordenanzas:[19]

Title V.

Art. 1. Mines are the property of my Royal Crown, as well by their nature and origin, as by their reunion declared in ... the Nueva Recopilación.

Art. 2. Without separating them from my Royal Patrimony, I grant them to my subjects in property (en propiedad) and possession, in such manner that they may sell them, exchange them, rent them, donate them, pass them by will, either in the way of inheritance or legacy, or in any other manner alienate the right which in the Mines belongs to them on the same terms on which they themselves possess it ....

Art. 3. Let this grant be understood to be upon two conditions: First, that they shall contribute to my Royal Treasury the prescribed portion of metals; and second, that they shall work and enjoy the Mines complying with what is prescribed in these ordinances, so that they shall be considered forfeited (perdidas) whenever a failure shall occur in complying with those ordinances in which it is so provided, and that they may be granted to any person who for that cause may have denounced them ....

Title VI.

Art. 14. Any one may discover and denounce a vein or Mine, not only in common land, but also on the private lands of any individual, provided he pays for the land of which he occupies the surface....

Art. 21. And I also declare that there shall be considered as Treasures, only ancient deposits of coin or jewels, of bars or ingots, and other pieces smelted by man or buried by thieves, or in some other manner, from time immemorial, so that the owner thereof is unknown.

Art. 22. I also grant, that any one may discover, petition for, register, and denounce in the prescribed form, not only Mines of gold and silver, but also those of precious stones, copper, lead, tin, quicksilver, antimony, zinc, bismuth, rock salt, and other fossils, whether perfect metals or half-minerals, bitumen, or mineral tar (jugos de la tierra), they being given to him for his enjoyment, benefit, and working....

Title VII.

Art. 1. ... I prohibit foreigners from acquiring or working Mines as their own property (propias) in my said Dominions, unless they be naturalized, or tolerated therein by my express Royal License.

Art. 2. I also prohibit persons belonging to religious order (Regulares) of both sexes, from denouncing, or in any other manner acquiring, for themselves, or for their convents or communities, any Mines whatever; it being understood also that the working of Mines cannot devolve on the secular ecclesiastics, as being contrary to the laws, to the orders of the Mexican Council (Concilio Mexicano) ... in consequence of this prohibition, such secular ecclesiastics, shall be absolutely obliged to sell and transfer to the hands of lay-subjects the Mines, or Haciendas for grinding and reducing metals, which, by title of inheritance or any other cause, may devolve on them ... within the term of six months....

[19] Halleck (ed.), A Collection of Mining Laws of Spain and Mexico, 222-232, quoting Royal Ordinances, May 22, 1783, for the Direction, Regulation, and Government of the Important Body of Mining of New Spain. Interestingly enough Title XVIII, Articles 2 and 8, established a royal seminary of mining in New Spain to train twenty-five Spaniards or noble Indians to preserve and extend knowledge of mining, the institution to be supported by a tax on silver converted into coins at the mint in Mexico. Ibid., 296-297. This should be recalled in connection with the demands of the oil workers in 1936. See Chapter X.

The articles of the Ordenanzas made it clear that the king was owner of the mines, in origin and by nature, and that he granted them on determined conditions, not separating them from the royal patrimony; that if the conditions were not met, rights granted would be lost and the king could grant them to others; that the substances in the royal patrimony included gold, silver, lead, and bitumens, or juices of the earth.[20] The Ordenanzas permitted the discovery, solicitation,

[20] Cámara de Senadores, Sección de Estadístico y Anales de Jurisprudencio, El Petróleo: La Mas Grande Riqueza Nacional, 18-20. Hereafter cited as Cámara de Senadores, El Petróleo.

registration, and denunciation of gold, silver, precious stones, copper, and other metals, half-minerals, bitumens, or juices of the earth.[21] Although the first legislation regulating

[21] Standard Oil of New Jersey, Present Status, 120-121. But pure property in these substances in the subsoil was not granted, as this very legalistic work failed to point out.

mining property in Mexico (Nueva España), the Ordenanzas preceded Mexican independence; the law did declare mining property pertained to the state but some question legitimately arose as to whether bitumenes y jugos de la tierra included petroleum in their meaning.[22]

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[22] Carlos Díaz Dufoo, La Cuestión del Petróleo, 144.

As it happened some confusion apparently existed within Spain concerning the extent of the sovereign's hold on the subsoil, for by decree Carlos III declared on November 28, 1789:[23]

> Art. 1. Stone-coal, not being a metal or a semi-metal, or any of the things included in the laws and ordinances which declare Mines the property (propias) of the Royal Patrimony, shall be free for working, and for trade by sea and land, throughout the whole Kingdom, and no impediment shall be placed in the way of its exportation by sea, for trade in foreign countries.
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> Art. 2. Such Mines should belong to the proprietors of the lands in which they are, by the word proprietor the direct owner being understood, and not the lessee or the holder of enfitensis; without it being necessary to ask for a license from any Court or Tribunal, to work, lease, sell, or grant them; but if the proprietor, the Mines being once discovered, shall refuse to make use of his ownership, in any of the aforesaid modes, in order to have it effectively worked, my council, and the Intendent of the Province, or the Corregidor of the Partido, shall have power to grant the right to work it to the discoverer, he giving to the proprietor the fifth part of its produce.
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> Art. 3. Mines of coal in common lands of the Pueblos should belong to the pueblo but if not worked, should be granted to the discoverer on the same terms given on private lands.

[23] Halleck (ed.), A Collection of Mining Laws of Spain and Mexico, 336-337, quoting Royal Order, November 28 and Cédula of Council of December 26, 1789.

The right of the landowner to control property rights in coal in the subsoil was confirmed by Carlos IV in 1792 and again in 1793.[24] The royal cédula of Carlos IV issued in 1789 was

[24] Standard Oil of New Jersey, Present Status, 119.

never in force in Mexico, although it served as a base of attack for those who argued that the ownership of petroleum corresponded to the surface owner.[25]

[25] Cámara de Senadores, El Petróleo, 20.

Still another ordinance affecting coal was issued by Carlos IV in August, 1792, by which it was ordered:[26]

> Art. 1. That notwithstanding the construction (inteligencia) which has been, or may be, given to the general laws and ordinances, that every species of Mines, even though not expressly named therein, pertain to the Crown, those of stone-coal shall be of free use, the same as, by ancient custom, are those of iron and other substances which are extracted from the bosom of the earth....
>
> Art. 3. The direct proprietary owners of lands in which there are coal Mines, whether they be Municipalities, communities, or individuals, shall be at liberty to discover and work them themselves, or to permit others to do so ... at their pleasure without there being requisite any other license or formality than for working, leasing, or selling the land itself in which they are contained....

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> Art. 4. The coal extracted from said Mines may be freely dealt in, by wholesale or retail, within the kingdom, without being subject to Royal or municipal duties of any kind ... and those which are exported in Spanish vessels from any one part to another of my dominions, and even to foreign dominions, shall also be exempt from the payment of general duties (Rentas Generales), but if carried in foreign vessels, they shall be charged and made to pay the duties....

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[26] Halleck (ed.), A Collection of Mining Laws of Spain and Mexico, 349-350, quoting Cedula of August 24, 1792.

The laws issued concerning coal were exclusively for Spain. The law of 1780 referred to the "abundance of coal mines ... in these dominions."[27] Coal mines did not exist

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[27] Cámara de Senadores, El Petróleo, 23.

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then in Mexico in abundance if at all. The law also spoke of the increase in the consumption of wood and the stripping of the mountains of their timber, but in Mexico there were virgin forests virtually untouched.[28] Furthermore the law of

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[28] Ibid., 24.

1792 ordered that despite other laws to the contrary, coal was to be exploited freely as by ancient custom were iron and other substances extracted from the earth; since that custom did not exist in Mexico, the Mexican government has maintained

that the law referred to Spain only.[29] In Mexico mines of

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[29] Ibid., 28. Senator Albert B. Fall, while explaining the mining ordinances of Spain to a witness before his committee investigating Mexican affairs in 1920, declared without qualification that the Spanish law while retaining title to the subsoil applied only to metaliferous substances, not to coal. See Investigation of Mexican Affairs, Preliminary Report and Hearing of the Committee on Foreign Relations United States Senate Pursuant to S. Res. 106 Directing the Committee on Foreign Relations to Investigate the Matter of Outrages on Citizens of the United States in Mexico, 66 Congress, 2 session, Senate Document no. 285, I, 175. Hereafter cited as Investigation of Mexican Affairs.

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lead, copper, and iron paid a levy and were not freely exploited; furthermore, laws of Castille were to be observed in the Indies only if they were convenient and not contrary to those especially made for each province.[30] Ordinarily the

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[30] Cámara de Senadores, El Petróleo, 28.

Spanish government notified directly the colonies when a law was meant to affect them. The extraordinary Cortes and Council of the Regency acting for Ferdinand VII in captivity notified the Indies and Philippines even in a time of invasion and civil war in Spain when a change in the law affecting quicksilver mines was made in January, 1811.[31] The fact that

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[31] Halleck (ed.), A Collection of Mining Laws of Spain and Mexico, 384-385, quoting decree of the Cortes and Council of the Regency, January 26, 1811.

in 1812 a new Spanish constitution incorporated the American colonies into the homeland and applied Spanish law to them was the basis for the legal contention that the Ordenanzas de 1783 were displaced before Mexico became independent, thereby freeing combustible minerals from dominion of the state.[32] Yet

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[32]Standard Oil of New Jersey, Present Status, 121.

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in 1830, the translator of Xavier de Gamboa declared:[33]

> Upon the establishment of independence of the Spanish colonies, they all or most of them adopted, in reference to mining, the laws existing previous to their separation from the mother country, with such modifications only as were rendered necessary by the alteration from a monarchial to a republican and federal form of government.

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[33]Xavier de Gamboa, Commentaries, I, vi.

The treaty signed at Córdoba August 24, 1821, between the Viceroy and the Commander of the Mexican army by which the independence of Mexico was recognized, declared that the provisional government would govern in conformity with the laws in force in every respect except where they conflicted with the Plan of Iguala until a constitution could be written; when the constitution was written it did not touch on civil legislation, leaving previous civil laws in effect.[34] After

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[34]De la Peña, El Dominio Directo, 60.

Iturbide was overthrown, the Treaty of Córdoba was renounced, but by express act of Congress only in its political provisions, leaving in force the guarantees of religion, independence, and union and other things in the treaty not opposed to the new regime, including Spanish civil law.[35] Specifi-

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[35] Ibid., 60-61.

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cally in regard to mining, the Congress on October 7, 1823, ordered suspended the portions of the Recopilación de Castille and of the Recopilación de las Indias which required foreigners to be naturalized or to receive express license to acquire and work mines.[36] The implication that in other respects the pre-

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[36] Halleck (ed.), A Collection of Mining Laws of Spain and Mexico, 403, quoting decree of the Mexican Congress, October 7, 1823.

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vious practices and laws did remain in force was clear. Foreigners were prohibited by the law of colonization of 1824 from acquiring real property within a zone twenty leagues from the frontiers, a restriction continued in the law of 1828.[37] Even the acquisition of surface real property in

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[37] Secretaría de Industria, Comercio, y Trabajo, Documentos Relacionados con la Legislación Petrolera Mexicana, II, 94.

Mexico was forbidden to foreigners by a law of 1837 unless the foreigner were married to a Mexican woman, naturalized, and subject to Mexican law regulating real property.[38]

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[38] Ibid., II, 95.

On the other hand some authorities argued that the new Mexican state did not heir the attribute of the Spanish crown, pointing out that it would be absurd to suppose that the state took over the rights which the Spanish monarchs exercised in regard to religion.[39] The Spanish kings might or might not

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[39] Salvador Mendoza, La Controversia del Petróleo, 501.

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have been legitimate owners of the soil and subsoil; in the juridicial state which they headed their dominion could not pass to the nation or to individuals except in all its integrity in which case either the private property was irrevocable, including the subsoil, or the pretension to nullify the effects of the civil law on the subsoil in regard to private holders made it equally useless for the monarchs preceding the private holders.[40] Other authorities argued that neither

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[40] Ibid., 500-502.

in Spain, Mexico, or any other Spanish dominion, was a law issued contradicting the Ordenanzas de Aranjuez and that the contention that with independence Mexico broke all ties with Spain and took over none of Spain's rights could not be defended, since the Treaty of 1836 renounced Spain's rights in Mexico in favor of the Mexican government.[41] In this way

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[41] La Cuestión Petrolera Mexicana: El Punto de Vista del Ejecutivo Federal, 27.

Mexico acquired for the nation ownership of the baldíos and public buildings and accepted after independence the laws then in existence, continuing to enforce the Ordenanzas de Minas.[42]

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[42] Ibid.

In this view, the Treaty of Peace and Amity signed between Mexico and Spain in 1836 vested the rights of the Spanish crown in the government of Mexico, transferring them to the government, including the Spanish law that title to the subsoil lay in the sovereign.[43] Despite the change of sovereignty

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[43] Government of Mexico, The True Facts about the Expropriation of the Oil Companies Properties in Mexico, 23. Hereafter cited as Government of Mexico, The True Facts.

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resulting from the war for independence, the Ordenanzas con-

tinued to be the mining code for Mexico and the Mexican nation merely substituted its own sovereignty for that of the Spanish crown and heired its patrimony, not excepting deposits of coal and oil.[44]

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[44] Cámara de Senadores, El Petróleo, 21.

Some legal views have held that the king's title after independence passed to the respective states of Mexico which acquired title to the mines within their limits and codified their ley común, embodying the general rule that the surface owner held everything on the surface and below, subject to easements, police regulations, and special mining laws; combustibles were put under the coal ordinances of the king in some cases and in others under the Ordenanzas de Aranjuez.[45]

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[45] Standard Oil of New Jersey, Present Status, 123.

It was not until 1884, however, that the State of Coahuila issued an ordinance declaring the coal deposits to be the property of the landowner,[46] and the first constitution of

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[46] Ibid.

Texas clearly stated, as if from necessity, that mines and minerals were released to the owners of the soil.[47] During

[47] Harlow S. Person, Mexican Oil: Symbol of Recent Trends in International Relations, 63. Hereafter cited as Person, Mexican Oil.

one of his periods as president of Mexico Santa Anna decreed (March 11, 1842) that foreigners could acquire property in mines of gold, silver, copper, quicksilver, iron, and coal when they were the discoverers and in accord with the ordinances of the government affecting such activities. The decree also included a provision requiring that foreigners be absolutely subject to existing Mexican law and that all questions arising in regard to their property were to be settled under Mexican law, not through diplomacy.[48] The same provi-

[48] Halleck (ed.), A Collection of Mining Laws of Spain and Mexico, 427-428, quoting decree of Santa Anna, March 11, 1842.

sions were repeated in a law of February, 1856.[49]

[49] De la Peña, El Dominio Directo, II, 273.

The Mexican government in 1863 regarded the Ordenanzas as being still in effect in regard to coal as well as for other minerals, for in that year Minister Alcáraz of Juárez's cabinet declared that deposits of coal, like mines, were under the direct dominion of the nation and that in the case of mines or of coal the cession of the nation was dominio útil

to citizens who enjoyed that right as a property right defined by the Ordenanzas de Minas.[50] The Supreme Court of the United

[50] Cámara de Senadores, El Petróleo, 21.

States declared in 1862 that in Mexico questions concerning mines and mining rights were dependent primarily on the terms of the Ordenanzas de Aranjuez which even though preceding Mexican independence remained to that date the sovereign law of Mexico.[51] The Chief Justice of the Supreme Court of Mexico

[51] Charles P. Howland (ed.), Survey of American Foreign Relations, 128, fn.

ruled in 1881 that the Spanish crown had given Mexico a special mining code in the Ordenanzas, since it was specifically issued for Nueva España, which persisted in Mexico as the supreme law of mining, conserving the same force and embracing within the sovereign, Mexico, the same extension held by the Spanish sovereign in 1783.[52] In 1882 the Supreme Court of

[52] Cámara de Senadores, El Petróleo, 23.

Mexico again ruled that the Ordenanzas were in force in Mexico and that subsequent Spanish laws applied exclusively to the peninsula.[53] In Mexican law it was accepted until 1884 that

[53] Ibid., 31.

the Spanish rule of regalía was in force and that the Ordenanzas de Aranjuez constituted the first mining code even after independence.[54] That the Spanish crown's ownership of all the

[54] Manuel González Ramírez, El Petróleo Mexicano: La Expropiación Petrolera ante el Derecho Internacional, 161. Hereafter cited as González Ramírez, El Petróleo Mexicano.

lands under its control was such that the right of private property was excluded except for grants made giving possessions equivalent to property but revocable without redress at the king's order is one interpretation of the Spanish system in Nueva España; whether the law of reversion meant that from 1521 on all rights of individual ownership might be revoked without indemnity[55] was a moot question. After 1884 in Mexico

[55] Andrés Molina Enríquez, "Mexico's Defense," in Atlantic Monthly, CLXIII, 382.

it became a problem developing under Mexican law, evolving from and in some cases departing from Spanish law.

It should be noted that in Spain in 1836 the law of expropriation of private property for public benefit declared no person, corporation, or establishment of any type could be deprived of its property for public benefit except after a

solemn declaration that the use for it was of public utility and that this property was necessary for it; that a just price be set for the property; and that the indemnity be paid. Public utility was defined as consisting of those works which had for their direct object proporcionas to the state in general or any uses or fruits of common benefit that might be executed by the state.[56] Royal orders of September 19, 1845, and Octo-

[56] Fernando de Madrazo, Espropiación Forzos á por Causa de Utilidad Pública o Sea Esposición de las Fórmulas para Tocar las Fincas Urbanas en Renta y Venta, y de la Parte Legal Relativa a Esta Materia, 132. Hereafter cited as De Madrazo, Espropiación Forzos á por Causa de Utilidad Pública.

ber 10, 1845, made unnecessary previous indemnification for damages, prejudice, or rights-of-way caused by the prosecution of public utility; a royal order of May 1, 1848, declared that since it would be detrimental for public works to be suspended pending determination of indemnity for damages or property lost, and practically impossible to comply with the law for previous indemnification, that the law of 1836 and the orders of September-October, 1845, must be complied with.[57] An in-

[57] Ibid., 138.

struction of January, 1853, clarified that order by declaring that temporary occupation of all property was subject to the royal orders of September 19, 1845, the instruction of October

10, 1845, and the royal order of May, 1848; permanent occupations were to be subject to the law of 1836.[58] A royal decree

[58] Ibid., 141.

of July 27, 1853, ordered that expropriated property be evaluated by experts, that valuations submitted by property owners be verified by them, and that once indemnification was provided in accordance with the law, the work should go on regardless of objections.[59] Whereas the law of 1836 left the

[59] Ibid., 144-146.

determination of expropriatory acts to the executive power exclusively, the Spanish constitution of 1869 changed this to expropriation by judicial order only, with the unaltered part of the law of 1836 continuing in force.[60] A new law concern-

[60] Ibid., 149-150.

ing expropriations for public utility in October, 1869, provided for previous indemnification before occupation of property expropriated permanently; for temporary occupations, indemnity before occupation was not required but a sum sufficient to cover indemnity was to be deposited if the work was being executed by concessionaries or contractors.[61] In the Spanish

[61] Ibid., 162-163.

mineral code of 1912 the law declared that the code applied to all substances of the mineral realm whatever might be their origin, nature, or deposit with the exceptions of vegetal tierra and surface waters; the state had the power to exploit them directly or concede their enjoyment by means of grants to individuals or companies.[62] The Spanish legislator also declared

[62] Salvador Rodríguez, La Cuestión Petrolera Mexicana, n.p.

in this law that the detailed classification of mineral substances was to be left open indefinitely so that in case of doubt or new commercial developments the state would lose none of its rights to the subsoil.[63]

[63] Ibid.

An amendment to the Mexican constitution in 1883 permitting the federal government to enact a federal mining code led to the passage in 1884 of the first federal mining code by the Mexican republic[64] and introduced a new era productive of con-

[64] Standard Oil of New Jersey, Present Status, 124.

troversy and strife in regard to the ownership of the subsoil wealth of the Mexican territory.

CHAPTER II

THE EVOLUTION OF MEXICAN MINERAL LAW, 1884 - 1909

The mineral code of 1884 broke the traditional Spanish-Mexican principle relating to the ownership of the subsoil. It granted to the owner of the soil petroleum and other substances which did not have to be denounced or receive special adjudication for their exploitation, providing only that the owner of the land would be subject in his works to the police power and to the rules of the code relating to conservation and to security for the workers.[1] Specifically, the mining

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[1] Miguel Manterola, La Industria del Petróleo en México, 4-5.

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code of November 22, 1884, provided in Article 10 that the exclusive property of the owner of the soil, without the necessity of denunciation or of special adjudication, extended to coal, rocks of the earth, and petroleum, the owner being subject in his works to the police law.[2] The committee[3]

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[2] Gobierno de México, El Petróleo de México: Recopilación de Documentos Oficiales del Conflicto de Orden Económico de la Industria Petrolera, con Una Introducción Que Resume Sus Motivos y Consecuencias, xxvi. Hereafter cited as Gobierno de México, El Petróleo de México.

[3] Consisting of Pedro Bejarano, M. M. Contreras, and Francisco Bulnes.

which formed the code and presented it to the legislators declared that in order to avoid all doubt as to the application of the law, Article 10 detailed the cases in which the owner of the soil could enjoy without the necessity of denunciation a number of inorganic substances and also petroleum and waters; in the case of waters it merely continued a long-established right of the land owners to enjoy the surface waters or to open wells.[4] Since oil was found in deposits similar to pure or

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[4] Documentos Relacionados con la Legislación Petrolera Mexicana: El Código de Minera en 1884, III, 87-88.

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salt water and since its enjoyment did not require excavations like those of a mine, the committee thought it should be classified like the deposits of water, leaving to the proprietors enjoyment of all substances which for their exploitation did not require the opening of a mine.[5]

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[5] Ibid.

The meaning of the law of 1884 lay at the bottom of most of the subsequent controversy in Mexico concerning property in the subsoil. The Mexican view, according to debate in 1905 in the Mexican Academy of Legislation and Jurisprudence, was that the law merely exempted from denunciation subsoil deposits on private property but that it did not signify that

the right was exempted from state power.[6] Luis Méndez, presi-

[6] Antonio Gómez Robledo, The Bucareli Agreements and International Law, translated by Salomón de la Selva, 12. Hereafter cited as Gómez Robledo, The Bucareli Agreements.

dent of the Academia de Jurisprudencia, in 1905 declared that the argument that the laws of 1884 and 1892 were only gracious acts of concession by the legislator who believed them to be in the public interest, and therefore that they did not revoke the power of the legislator to reclaim the same grants for public good when he thought it necessary, was weak. The argument was that the legislative power was limited by the constitution which granted, in respect to the rights of man, certain irrevocable guarantees suspendable only in times of danger.[7]

[7] Díaz Dufoo, La Cuestión del Petróleo, 147-148.

The Academy ruled in 1905 that a law destroying rights granted under the laws of 1884 and 1892 would be retroactive and contrary to the constitution.[8] In this view, regardless of the

[8] Ibid.

validity of the later arguments favoring nationalization, the law was contrary to it; the Mexican system had established that certain inorganic minerals pertained to the state with

revocable concessions granted to private persons, but it had also established irrevocable dominion to other subsoil substances, including oil, in the surface owner and no law affecting those rights could be legal under the constitution of 1857.[9] That was the view of the United States Department of

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[9] Ibid., 153.

State which declared that the Mexican mining law of November 22, 1884, gave foreigners the right to acquire mining property and exclusive property in surface or subterranean petroleum.[10]

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[10] Oil Concessions in Mexico. Message from the President of the United States Transmitting Report of the Secretary of State in Response to Senate Resolution No. 330, Submitting Certain Information Respecting Oil Lands or Oil Concessions in Mexico, 69 Congress, 2 session, Senate Document no. 210, p. 2. Hereafter cited as Oil Concessions in Mexico.

The opposing views concerning the meaning of the law of 1884 approached the question from several routes. One was that the law of 1884 granted property in the substance in the subsoil and not in the subsoil itself.[11] That opinion held

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[11] Secretaría de Industria, Comercio, y Trabajo, Documentos Relacionados con la Legislación Petrolera Mexicana, II, 300.

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that the law of 1884 granted rights which were not in the nature of contract rights but were a gift of the state, a

grant, permitting the owner of the soil to explore freely his subsoil with the understanding that the privilege could be revoked at the will of the sovereign.[12] The code conceded a

[12] Fernando González Roa, Las Cuestiones Fundamentales de Actualidad en México, 61.

right to acquire property, not the property right itself.[13]

[13] Ibid., 106.

The only effect of Article 10 of the law of 1884 was to permit the owner to exploit freely; it did not change property rights and, although it altered the fundamental principles of Mexican legislation in regard to minerals, it did so only to make a concession of general type, according to this view.[14] Accord-

[14] La Cuestión Petrolera: El Punto de Vista del Ejecutivo Federal, 35-37.

ing to the Mexican government of a later period the declaration in the law that surface owners might exploit and utilize the petroleum and gas springs without the necessity of filing special claims clearly meant that the surface owners were merely granted rights to exploit and use the oil; so long as owners did not exercise the right by reducing oil to possession, they did not become the owners of the oil in the subsoil.[15]

[15]Government of Mexico, The True Facts, 24.

Therefore, the laws passed in regard to the subsoil did not vest title to oil in the subsoil but granted authorization to surface owners freely to exploit the subsoil and to reduce the oil to possession.[16] Accordingly Article 10 of the mining

[16]Ibid., 25.

code of 1884 was to be limited stringently in its interpretation to signify not a right of property but a title of appropriation of oil which might be discovered and possessed, this line of thought argued.[17] In that view the property granted

[17]Salvador Mendoza, La Controversia del Petróleo, 223.

in the law of 1884 was not the absolute property of Roman law.[18]

[18]Jose Vázquez Schiaffino, Joaquín Santaella, y Aguiles Elorduy, Informes Sobre la Cuestión Petrolera, 18.

According to the Magistrado de la Suprema Corte de Justicia in 1921, if the law of 1884 had applied to radium what owners would have been granted would have been the right to have the substance when it was discovered among the minerals

of the subsoil, but, if it were not known to be there, the most that could be said would be that they had the right to search for it.[19]

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[19]Mendoza, La Controversia del Petróleo, 573.

The mining code of 1884, when it spoke of the right of the owner of the soil to the oil, could not be understood to have created a property right but only a pre-eminence in engendering such, pending the positive acts by which were determined the possession of things and the ends of the law, declared Botella Asensi.[20] Article 10 of the law of 1884 did

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[20]Juan Botella Asensi, La Expropiación en el Derecho Mexicano. El Caso del Petróleo, 42. Hereafter cited as Botella Asensi, La Expropiación.

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give exclusive property of the oil to the surface owner, but it did not grant the subsoil itself, establishing in regard to the subsoil only a preferential right to explore, repeated the Mexican government.[21] The Mexican legislator did with-

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[21]Secretaría de Industria, Comercio, y Trabajo, Retroactividad de la Constitución de 1917 y de la Legislación del Petróleo: Estudio Jurídico del Lic. Manuel de la Peña. El Abogado Kellog, y el Caso México: Refutaciones de los Sres. Licenciados Aguiles, Elorduy y Manuel de la Peña, 9. Hereafter cited as Secretaría de Industria, Comercio, y Trabajo, Retroactividad de la Constitución de 1917 y de la Legislación del Petróleo.

draw after 1884 from the Spanish principle of the regalia and incorporated the ownership of the oil in the owner of the surface, placed after that in the rule of common property to be adjudicated by the Mexican civil code, contended González Ramírez.[22]

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[22] González Ramírez, El Petróleo Mexicano, 164.

Mexico's first civil code, that of 1870, declared that the surface owner was also owner of the subsoil, except that the surface owner could use land only in accordance with a mining law to be passed, and the code prescribed that filing of claims, grants, operations, and everything connected with mining would continue to be governed in the meantime by the special mining ordinances.[23] Until the law was issued, those

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[23] Government of Mexico, The True Facts, 133.

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engaged in exploiting minerals were not the owners thereof but concessionaries who enjoyed the right to exploit captured minerals.[24] The Mexican civil code of 1884 in Article 731 de-

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[24] Ibid., 134.

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clared the same property rights as Article 10 of the mining code of 1884, the right to possess and enjoy the fruits of the

thing possessed by the first possessor.[25] That would apply to

[25] Sindicato de Trabajadores Petroleros de la República Mexicana, Comite Ejecutivo General, La Cuestión Petrolera: Sus Diversos Aspectos, 43-44. Hereafter cited as Sindicato de Trabajadores Petroleros, La Cuestión Petrolera.

both the surface and the subsoil and proprietorship could be extended within the earth as far as the proprietor wished and could extend it, but from deposits from which no property had been extracted, for any reason, no private right would exist.[26]

[26] Ibid., 45.

Consequently owners who did not exercise their rights to exploit the subsoil by reducing oil to possession did not become the owners of the oil in the subsoil, according to the Mexican government.[27] The law of 1884 could not but be interpreted in

[27] Government of Mexico, The True Facts, 24.

terms of the civil code of 1884 according to which, in so far as he had not captured the oil, the oil could not be the object of appropriation by the owner.[28] Oil, like treasure, would

[28] González Ramírez, El Petróleo Mexicano, 173.

become property when it entered into possession and not before, and in the light of the Mexican civil code there could be no property upon a thing not discovered or not known; nor could one object to a change in the law of treasure because while not discovered the surface owner did not possess property in treasure, the Mexican argument continued.[29] In Article 769

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[29] González Roa, Las Cuestiones Fundamentales de Actualidad en México, 40-42.

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the civil code stated that treaures were never to be considered as a fruit of the soil[30] and therefore not to be included in

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[30] De la Peña, Estudio Jurídico, Político, y Económico, 52.

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possession with the soil.

When it was said that the proprietor of the surface also was the proprietor of the subsoil it seemed that a principle was established by which the same rights which held on the surface were also held below, but the most scrupulous observation of that principle would have permitted only the concept that certain objects known and determined and subject to dominion were referred to, according to Mexican lawyers.[31]

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[31] González Ramírez, El Petróleo Mexicano, 171.

González Ramírez argued that utter confusion would result from the claim that one was proprietor of that which might be discovered in the subsoil, whether anything was known to exist there or not. The appropriation of property implied its inclusion in commerce, a thing which could not be realized except when the property was in a state that permitted its clear distinction and valuation; oil in deposits was unknown and uncertain and ownership of it could not be manifest so that property, which could only exist in things described and having being, could scarcely be said to apply to oil undiscovered in the subsoil, in the Mexican view.[32] Further, since Article

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[32] Ibid., 171-173.

2828 of the civil code stated that only things of commerce could be objects of sale or purchase, contracts which tried to transmit subsoil rights, or even real property, to foreigners were void, in the light of the civil code and of the Mexican laws concerning the inability of foreigners to acquire real property in Mexico.[33] Oil, like running waters, wild

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[33] Secretaría de Industria, Comercio, y Trabajo, Documentos Relacionados con la Legislación Petrolera Mexicana, II, 102.

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animals, and birds, under this interpretation of the law, was res nullius in its natural state, having no actual owner be-

cause no one had reduced it to property by means of possession. Such things even when found on private property did not belong to the owner of the property but to the state as other vacant property.[34] The enjoyment of such a right would not be exempt

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[34] Sindicato de Trabajadores Petroleros, La Cuestión Petrolera, 70.

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from modification except by the road of expropriation any more than the right to enjoy game would be; it would be impossible to determine the indemnity due for something no actually in commerce, immeasurable, and not possible to value Mexican lawyers declared.[35] States could not renounce the right of emi-

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[35] González Roa, Las Cuestiones Fundamentales de Actualidad en México, 103-104.

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nent domain in a general manner because it pre-existed constitutions and was necessary to the existence of the state.[36]

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[36] Ibid., 61.

While dominion upon the mines was eminent domain, it was of a different nature from that exercised upon common things in the sense that the state exercised a fuller power upon privately held mineral deposits since it never gave up completely its power to intervene in the property of the subsoil; to re-

nounce such domain upon the subsoil would be a renunciation of the right to legislate upon it and to give up the reversable character of mining property which derived from sovereignty, an act beyond the power of the mining code of 1884, since the constitution of 1857 granted no more power to the government than the regulation of such things.[37]

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[37] Ibid., 36.

Furthermore, the Mexican argument went on, the moment that oil was recognized as a mineral, it became subject to the mining laws and could not belong to the surface owner, for the law of 1884 could not change the nature of oil and therefore could not exempt it from the mineral laws.[38] Although the law

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[38] La Cuestión Petrolera: El Punto de Vista del Ejecutivo Federal, 33-35.

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did leave oil to ordinary legislation, both the civil code of the Federal District and the civil codes of the states declared that a proprietor had the right to do as he would with his property save for the mining legislation; so oil, even though submitted to ordinary property rights, because of its nature as a mineral remained subject to the mining legislation.[39]

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[39] Ibid., 35.

The Mexican government itself indicated that opinion when in 1887 a law was passed which exempted mines of coal, of oil, and of iron from all imposts except the stamp tax imposed by the mining laws.[40] It would be absurd to admit the full dominium of the state upon the minerals and then to make a division between them and combustible minerals.[41]

[40] Secretaría de Industria, Comercio, y Trabajo, Documentos Relacionados con la Legislación Petrolera Mexicana, II, 309.

[41] De la Peña, Estudio Jurídico, Político, y Económico, 53.

The law of 1884 lasted only eight years and the authors of the law of 1892 had good reason to abolish the novel idea of "exclusive property" and to give the property owner only the right to exploit, returning to the nation dominio directo.[42]

[42] Secretaría de Industria, Comercio, y Trabajo, La Ley Mexicana del Petróleo y su Reglamento: Comentarios, 10.

The mineral law of June 4, 1892, repeated the provisions of the previous law of 1884, stipulating that the owners of the soil could freely exploit without the necessity of a special concession any combustible minerals, oil, and mineral waters.[43]

[43] Manterola, La Industria del Petróleo en México, 5.

A Memoria de la Secretaría de Fomento in 1896 reviewed the conditions leading to the passage of the law of 1892 and it made clear that no fundamental change in the kind of title held in mining properties was intended but that what was involved was merely a granting of more secure title to stimulate development of mining.[44]

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[44] Howland (ed.), Survey of American Foreign Relations, 132 fn.

The law itself declared:[45]

> Art. 4. The owner of the soil may exploit freely without the necessity of a special concession in any case the following mineral substances: Combustible minerals. Oils and mineral waters....
>
> Art. 5. Mining property legally acquired and that which may be acquired under this law shall be irrevocable....
>
> Art. 6. The first title to mineral property which is newly acquired shall be issued by the Secretaria de Fomento....
>
> Título II
>
> Art. 13. ...in lands of private ownership mineral explorations cannot be made without the permission of the owner or his representative. But in case he cannot obtain this permission he shall be able to ask the proper administrative authority who shall give it in accordance with the established rules....

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[45] Ley Minera de los Estados Unidos Mexicanos, 5-13.

The Reglamento de la Ley Minera was also issued in 1892:[46]

> Art. 11. If the exploration is to be carried out on pri-

vate property, the exploring party shall solicit the permission of the owner or his representative, who, in case of granting it, shall give to the exploring party the written statement, marking off in it the limits of the land he has verified for exploration. This statement shall be presented by the explorer to the Agent of Fomento who shall take due notice thereof and return it to the explorer....

Capítulo IV

Art. 43. The mineral substances enumerated in Art. 3 of this law cannot be exploited without previous concession and likewise no work in mines or deposits of said substances shall be permitted which is not protected by a legal title duly registered....

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[46] Ibid., 35-45.

In addition, the law of 1892 in articles five and twenty-nine modified the system of denunciation and expropriation, replacing the previous one by a system of imposts, imposts applicable to mineral properties previously acquired; this tax was not a mere fiscal tax, for the impost could affect the continuation of a property right since if the surface owner did not pay it, the right was lost, contrasting to the general condition in regard to taxes when the state received by judicial sale what was due it and not the full property right.[47] The

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[47] Camilo Barcía Trelles, El Imperialismo del Petróleo y la Paz Mundial, 229.

Department of State of the United States viewed the law of 1892 as permitting owners of land to work freely without any

special permission whatever mineral fuels and oils, and mining property legally acquired at the time of the enactment of the law and thereafter acquired was held to be irrevocable and perpetual so long as the federal property tax was paid.[48] The

[48] Oil Concessions in Mexico, 2.

law also distinguished between substances requiring concessions and those not and removed the limit on the number of claims permitted by one applicant.[49] Nevertheless the law of 1892

[49] H. N. Branch, "Brief Analysis of Concessions in Mexico," in Mexican Year Book, 1920-1921, pp. 10-11.

did not clearly establish property in the subsoil, dealing primarily with rights of exploitation in its terms.

Until 1901 no further laws affecting mining rights were enacted; at that time the Mexican government issued the first of its mineral laws dealing solely with petroleum. The law, passed in December, 1901, gave the federal executive power to issue concessions for the purpose of making explorations in the subsoil of the national lands or lakes and lagoons of federal jurisdiction; concessions granted were to cost five centavos per hectare and permits for exploitation of oil discovered were to be issued for ten years.[50] The law did not

[50] Manuel Andrade, Codificación Petrolera Contiene Todas las Leyes, Circulares, Disposiciones, Acuerdos, Reglamentos, y Aclaraciones Dictadas desde el Año de 1887 a 1920 en Materia del Petróleo, Debidamente Arreglada, Anotada, y Concordada, 11-13. Hereafter cited as Andrade, Codificación Petrolera.

establish new conditions for ownership, however, in which case it followed that the terms of the Código Civil operated, requiring that possession be signified by the holding of a thing or the enjoyment of a right; consequently concessionaries had to execute material acts of installation, exploration, or exploitation upon the land itself in order that possession might begin and be continued.[51] Discoverers of oil were to enjoy

[51] Jorge Vera Estañol, Cuestiones Jurídico-Constitucionales, 44-45.

the following privileges: to export free of imposts all products of the exploitation; to import free of imposts a single time machinery for refining oil, pipes necessary, accessories to pipe lines, storage tanks, etc., with capital invested in oil exploitation to be free of all federal taxes except the stamp tax.[52] The government thus could issue concessions in

[52] Ibid.

federal zones to companies established within Mexico.[53] The

[53]Gobierno de México, El Petróleo de México, xxvii.

law signified the fullest privileges for those granted concessions and under it were granted full concessions upon the national lands which were monopolized by one group of interests--English and American--and which later constituted almost invulnerable privileges.[54] In respect to exploiters of other

[54]Manterola, La Industria del Petróleo en México, 5-8.

than national lands, the law of 1892 continued to apply.

About the only restrictions placed on the exploitation of the oil were provisions forbidding the drilling of wells within towns or within three kilometers of some previously discovered well.[55] The law of 1901 was designed to favor the

[55]Ibid.

activities of Sir Weetman Pearson who, under it, received concessions to work in the terrenos baldíos and the national lands, and drilled a hundred wells before he found oil.[56]

[56]Informe Que Rinde a la Junta Federal de Conciliación y Arbitraje la Comisión Pericial en el Conflicto de Orden Económico en la Industria Petrolera. Presidente: Efraín Buenrostro; Secretario: Jesús Silva Herzog; Vocal: Mariano Moctezuma, mimeograph, I, 8-9. Hereafter cited as Informe Que Rinde a la Junta Federal.

The first effort by the Mexican government to write a general petroleum law was made in 1905, an effort which was abortive but of great significance because of the proposals made in the law which would have returned completely to Spanish legal theory in regard to the subsoil. According to Edward F. Doheny, as soon as the first oil well was brought in a professor in the geological institute tried to have petroleum nationalized.[57] A similar view was expressed by the Standard Oil Company:[58]

> As early as 1905, Mexican radicals bethought themselves of a simple way to acquire the oil which the foreigners had brought into production in Mexico.... Had they succeeded, they would with one stroke have robbed the foreign oil companies of the fruit of their toil....

The projected law of petroleum of 1905 declared the works for drilling in search or exploitation of oil to be of public utility and that in the future such activities only could be carried out, even on private property, after the receipt of previous permission from the Secretaría de Fomento.[59] The

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[57] Investigation of Mexican Affairs, I, 217. "Aguilera," according to Doheny, probably referring to Aguiles Elorduy.

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[58] Standard Oil Company of New Jersey, The Fine Art of Squeezing, 2.

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[59] Mendoza, La Controversia del Petróleo, 230.

law, proposed by the Secretaría de Fomento, thus would have required owners to secure permits from the government to exploit combustible minerals.[60] As some doubt concerning its legality

[60] Standard Oil of New Jersey, Present Status, 124.

in the light of the law of 1892 existed, the proposed law was submitted to the Mexican Academy of Legislation and Jurisprudence for discussion,[61] thereby precipitating a memorable ar-

[61] Ibid.

gument over the nature of property under Mexican law and tradition.

In the debate Francisco Beistegui declared it to be his opinion in regard to the suggested law that however regretable it might be, previous legislation had created a perfect private property in subsoil in favor of the owner of the soil and that it would be impossible to subject such rights to the ordinary type of expropriation since the property was actually of unknown value; in his view the government should have declared the industry of public utility in order to make expropriation possible with proprietors being indemnified only by the receipt of a certain percent of production from their land.[62]

[62] Mendoza, La Controversia del Petróleo, 441-442.

Señor Beistegui also declared:[63]

> Property is a right, possession is a fact. When the two correspond, we have the normal state of property. The cloud which passes overhead cannot be my property until it dissolves in rain and the water falls upon my property.... There are some rights conceded by the law which are subject to changes and modifications which the legislator deems opportune and the problem is to determine whether the right conceded to proprietors in general to search for determined substances in the soil of their property is of the class which one cannot be deprived of in law or if it is one of these which the will of the legislator concedes, denies, or retracts at convenience.

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[63] Cámara de Senadores, El Petróleo, 60-64.

In the debate it also was pointed out that in colonial days the term property had been used to describe rights bestowed on private persons by the state to substances belonging to the royal power but that such rights had never been understood to imply a total renunciation of the superior rights of the state.[64] The proponents of the law of 1905 argued that

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[64] Gómez Robledo, The Bucareli Agreements, 12.

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subsoil minerals constituted mines and were subject to the special law of mines under Spanish and Mexican legislation; it was further contended that special rights could not exist in property not in possession, as in petroleum under the soil which the surface owner might not know existed, an argument which might have been interpreted to deprive the surface owner

of possession even of subsoil waters.[65]

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[65] Standard Oil of New Jersey, Present Status, 124-126.

On the other hand another argument expressed in the Academy was that if the king could grant to certain persons or to any person unconditional property in the mines within a certain region, it could not be pretended that a right based on a similar concession was less respectable; what the king had done, the government might do and had done, by legislative power.[66]

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[66] Díaz Dufoo, La Cuestión del Petróleo, 143.

Isidro Rojas expressed the following significant views:[67]

> The owner of the surface who has not even discovered the deposits of springs beneath the soil could not dispose of them, could not maintain them in possession, could not transfer them because they are not in commerce, are not held; in short, they are only hypothetical things and the right of property in them is hypothetical. Does the right of exploring and exploiting which the law concedes to the proprietor according to the Code of 1884 constitute a property right? No, because this faculty signifies only a hope, an expectation, pending regular exercising, does not constitute a right. I have the faculty to appropriate all the oxygen in the air, but it does not follow that all the oxygen in the air may be a property of mine. The legislator as the organ of public interest can regulate the past and present in the name of that interest. He could destroy some hopes formed under previous law, but it is the legislator who must decide the question of utilidad since that is his mission.

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[67] Cámara de Senadores, El Petróleo, 66-67.

As early as 1881, as a matter of fact, Justo Sierra had declared that property rights were conditioned by the power of society to declare public utility and that a declaration of public utility put an end to property rights within the precise limits defined by the law formulating the exercise of public utility.[68]

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[68] José C. Valadés, El Porfirismo: Historia de un Régimen: El Nacimiento (1876-1884), 239.

Nevertheless the Academy ruled after discussion that a law destroying the rights granted under the laws of 1884 and 1892 would be retroactive and contrary to the constitution and therefore it rejected the proposed law of 1905. The debate resulted in a triumph for individualism but it clearly showed the vitality of the tradition of the national ownership of the subsoil.[69]

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[69] Sindicato de Trabajadores Petroleros, La Cuestión Petrolera, 30.

A third mining law was adopted by the Mexican government in 1909, returning to the wording of the law of 1884 and enumerating certain substances of direct ownership by the nation and others, including petroleum, as exclusive to the owners of the soil.[70] The law of 1909 amplified the principles of the

[70]Person, Mexican Oil, 36.

law of 1892 concerning the rights of property in mineral substances, declaring to be the exclusive property of the owner of the soil all forms of combustible minerals, bitumens, etc.; it completed the renunciation of the nation's traditional claim to the subsoil which had begun in 1884.[71] The state thus de-

[71]Manterola, La Industria del Petróleo, 8-9.

prived itself of dominium utile over minerals in the subsoil yet retained direct dominion, the right of the lord founded in sovereignty itself, which obliged the proprietor to pay a canon or pension in recognition of that superior right.[72] If the

[72]Iniciativa de Ley Orgánica del Artículo 27 Constitucional en lo Relativo a Petróleo Que Presenta el C. Gral. Cándido Aguilar, Gobernador Constitucional del Edo. de Veracruz a la H. Legislatura del Mismo Estado, Para Ser Enviada por Esta al Congreso de la Unión, 15.

law made specific exception of oil in so far as the institution of dominio directo was concerned, it was because once it had been included in it.[73] The law was enacted when the commercial

[73]Mendoza, La Controversia del Petróleo, 485.

value of oil became apparent and was intended to sustain the principles of the law of 1884, not change them, as the deputy who introduced the bill, Señor Calero, made clear.[74] The re-

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[74] Howland (ed.), Survey of American Foreign Relations, 133.

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turn to the principle of 1884 was to endure until 1917.[75]

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[75] Secretaría de Industria, Comercio, y Trabajo, La Ley Mexicana del Petróleo y Su Reglamento: Comentarios, 10.

Even though the law of 1909 declared that deposits of bitumens were the exclusive property of the surface owner, that act did not grant the proprietor all the oil existing in the subsoil, González Ramírez argued, because the law could not be understood by a single isolated phrase but only by means of all the interpretations of the problem; the right so vested in the proprietor was that of making successive occupations of the subsoil, exploring, and exploiting freely the oil without the necessity of concessions, appropriating freely the oil which could be captured without paying a royalty to the state, continuing to hold the right by exercising it and exploiting the subsoil, and enjoying security in this right in the knowledge that the state would not grant concessions to third parties on the soil of the owner.[76] Outside these, there existed

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[76] González Ramírez, El Petróleo Mexicano, 173-174.

for the owner the expectation of a right, an aptitude leaving him free to capture or not to capture all the oil in his subsoil.[77] Otherwise, taken literally, Article 2 of the mining

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[77] Ibid.

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law of 1909 conflicted with the constitution which could not have been the intention of legislators who did not have the power to reform the constitution; the law, De la Peña also contended, when examined in such a way that it would not conflict with the constitution, appeared to grant no more than a preferential concession to enjoy or develop the products of the subsoil when by effort of the surface owner they entered into commerce.[78] On the other hand the American Department of State

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[78] De la Peña, El Petróleo y la Legislación Frente a las Compañias Petroleras de México, 6-7. Hereafter cited as De la Peña, El Petróleo.

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in 1927 declared that Article 2 gave exclusive property in ore bodies and mineral fuels of any form to the owners of the soil.[79]

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[79] Oil Concessions in Mexico, 2.

The mining law of 1909 also declared that in all matters not provided for within the terms of the law, the civil code of the Federal District relative to common property should

govern, and those provisions upheld the ownership of the subsoil by the surface owner in so far as the property was in commerce.[80]

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[80] Standard Oil of New Jersey, Present Status, 127-128.

In the law regulating the organic mining law of 1909 it was provided that an explorer wishing to exploit private lands should receive permission from the owner of the soil or his representatives, which permit should then be presented to the Agente de Minería, recorded, and returned; if permission could not be obtained from the owner or his representative, then the explorer should seek it from the Agente de Minería who should publish the request for fifteen days and notify the proprietor before granting the necessary permits which should specify definitely that the mining properties were subject in everything to Mexican law and Mexican courts that were the only ones competent to resolve any question arising concerning such properties, to the exclusion of all foreign intervention.[81]

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[81] Reglamento de la Ley Minera de los Estados Unidos Mexicanos, 22-24.

The mining law of 1909 and its reglamento remained on the statute books until the law regulating Article 27 of the constitution of 1917 was finally passed in 1926.[82] It was variously

[82]Félix F. Palavicini (ed.), México: Historia de Su Evolución Constructiva, IV, 409.

interpreted as stupid or unconstitutional by virtue of having broken the principles of previous laws and of the constitution of 1857.[83]

[83]Manterola, La Industria del Petróleo, 8-9.

CHAPTER III

THE REVOLUTION AND MEXICAN MINERAL LAW

With the outbreak of the Mexican revolution in 1910 came an abrupt change in the attitude of the Mexican government toward subsoil rights of private holders, contrasting sharply with that expressed in the law of 1909. The first evident change in approach was fiscal. In fact, the struggle of Mexico to control its oil wealth was marked in its first phase by the effort to tax the industry, an era ending in 1920 by which time it was established that Mexico had a right to participate, by means of an impuesto, in a national wealth which the oil companies considered their exclusive property.[1]

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[1] Ernesto Enríquez, Problemas Internacionales: Reclamaciones y Petróleo. Panamericanismo y Derecho Internacional. Cuadernos de Político No. 3, p. 55. Hereafter cited as Enriquez, Problemas Internacionales.

The reaction to the Mexican effort to tax was immediate. Ambassador Henry Lane Wilson in 1911 complained to the Mexican government that American oil companies were being taxed almost beyond their endurance, according to their plaints from Tampico, to which Madero's Minister for Foreign Affairs replied that the tax was a stamp tax of three centavos per barrel, less than the tax paid by oil companies of California, and which a majority of the oil companies in Mexico had accepted without protest.[2]

[2]Frederick S. Dunn, The Diplomatic Protection of Americans in Mexico, 310-311.

In June, 1912, Francisco Madero, the new president, issued a decree establishing a special stamp tax of twenty centavos per metric ton on production of crude oil.[3] That was the first

[3]Gobierno de México, El Petróleo de México, 540.

tax levied on crude oil, and the decree also required the oil companies to register for the first time.[4] About 1913 the

[4]Person, Mexican Oil, 39. Subsequently this tax was increased to fifty centavos per ton in November, 1913, and to sixty centavos in June, 1914. See Manterola, La Industria del Petróleo en México, 314.

Chamber of Deputies received two other proposals affecting the oil business: one, that a giant government corporation be formed to nationalize and operate the petroleum deposits, and the second, that a commission be named to revise all franchises and concessions and to form special laws upon such things in the future.[5]

[5]Manuel Flores, Apuntes Sobre el Petróleo Mexicano, 33.

Beginning with Venustiano Carranza the attack on the oil industry became direct. In July, 1914, Carranza ordered the derecho de barra on crude oil to become ten centavos per metric ton beginning August 1, 1914.[6] This decree was followed, Decem-

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[6] Gobierno de México, El Petróleo de México, 540.

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ber 12, 1914, by another issued from Vera Cruz which indicated clearly the determination of the Mexican government to re-examine property holdings in Mexico:[7]

> Article 2. The first chief of the revolution and depository of the executive power of the Republic, shall enact and enforce, during the struggle, all the law, provisions, and measures tending to meet the economic, social, and political needs of the country, carrying into effect the reforms which public opinion demands as indispensible for the establishment of a regime which will guarantee the equality of Mexicans among themselves, agrarian laws favoring the creation of small landowners, the suppression of latifundia ... and the restoration to townships of lands illegally taken from them ... revision of laws relative to the exploitation of mines, petroleum, water rights, forests ... in order to destroy the monopolies created by the old regime....

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[7] Affairs in Mexico, Message from the President of the United States Transmitting in Response to a Senate Resolution of January 6, 1916, Certain Information Relative to Affairs in Mexico. 64 Congress, 1 session. Senate Document no. 324, p. 28. Hereafter cited as Affairs in Mexico.

In January, 1915, Carranza issued the following decree:[8]

> Considering: That it is necessary to revise in a manner complete and radical the petroleum legislation of the country, regulating carefully everything relating to the

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exploration and exploitation of deposits of petroleum and gaseous hydrocarbons existing in the Republic, and with the end of avoiding that the petroleum industry continue, as to now, working exclusively in benefit of the petroleum companies with great prejudice to the agriculture and the water ways of the country, without either the Nation or the government having had the just return from these exploitations which belong to them

Decreed

Art. 1: From this date and until the issuance of the new laws ... must be suspended all the works which are being executed for the construction of pipe lines, drilling of oil wells, and, in general, whatever other works may be connected with the exploitation of petroleum....

Art. 4: The deposits of petroleum which flow by virtue of works executed in violation of present law, will be considered property of the Nation.

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[8] Andrade, Codificación Petrolera, 58-60.

The growing uneasiness of property owners was likely not assuaged greatly by the declaration made by Carranza from Vera Cruz on June 11, 1915:[9]

First: The constitutionalist government shall afford to foreigners residing in Mexico all the guaranties to which they are entitled according to our laws, and shall amply protect their lives, their freedom, and the enjoyment of their rights of property, allowing them indemnities for the damages which the revolution may have caused to them, in so far as such indemnities may be just....

Fourth: There shall be no confiscation in connection with the settlement of the agrarian question. This problem shall be solved by an equitable distribution of the lands still owned by the government; by the recovery of those lots which may have been illegally taken from individuals or communities; by the purchase and expropriation of large tracts of lands, if necessary....

Fifth: All property legitimately acquired from individuals or legal governments, and which may not constitute

a privilege or a monopoly, shall be respected.

[9] Affairs in Mexico, 32-33.

These two decrees were a clear warning to the oil companies that the Carranza government did not feel that their property rights were sacrosanct or any more exempt from re-examination than the property of agriculturists. The notice to the foreigner and monopolist, holding land or other wealth, was beyond question. As early as February, 1915, a commentator on the January decree ventured to ask the question as to what would happen if the order under which companies had bought lands giving subsoil to the surface owners were overthrown.[10] Another

[10] F. Urbina, La Cuestión del Petróleo en México Considerada desde el Punto de Vista Geológico, Económico, e Industrial, Especialmente en lo Que Se Refiere a la Intervención Gubernamental en la Producción Petrolera, 36. Hereafter cited as Urbina, La Cuestión del Petróleo. Yet Edward F. Doheny declared in the United States Senate investigation in 1919 that every oil corporation interested in Mexican oil aided Carranza during the Revolution. See also Investigation of Mexican Affairs, I, 279.

disturbing question was asked when the problem of the law's giving property in oil to the owner of the soil was considered. The simple query, to which oil does it refer?[11] opened up a

[11] Urbina, La Cuestión del Petróleo, 46.

legal abyss for the holders of oil lands, for from such views could arise that Phoenix, the opinion that it referred to oil discovered, not oil yet in the soil.

A Carranza decree of August, 1916, ordered that no state issue laws or decrees or administrative regulations upon commerce, minerals, banks, forests, oil, or mineral deposits found in the subsoil of the nation.[12] On August 15, 1916, the Secretaría de Fomento issued a circular declaring:[13]

> Considering the citizen First Chief of the Constitutionalist Army, in charge of the Executive Power, that since our fundamental laws require that foreigners must enjoy in Mexico the same rights as Mexicans, it is natural and legitimate that at the same time they have the same obligations, in order that the liberality of our democratic institutions may not be understood to permit that foreigners owning real property in the country, may be, as lamentably has happened, in a better juridical position than the Mexicans: which would happen if they ... could recur utilizing resources and formulating protests before their respective governments, the same First Magistrate of the Republic ... has seen fit to order the establishment of the following dispositions of obligatory character in all the Republic....

The decree then required that all foreigners who wished to acquire national lands, mineral deposits, federal waters, or concessions for exploitation of natural wealth must have beforehand presented in writing a formal declaration that in regard

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[12] Gobierno de México, El Petróleo de México, 542-543.

[13] Andrade, Codificación Petrolera, 86.

to their property they were to be considered Mexican; foreign companies were not to be capable of acquiring such property provided they did not make the same declaration.[14] The time

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[14] Ibid., 87.

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limit to obey this order was extended in a decree of December 15, 1916, and not until April 24, 1917, was the time limit declared exhausted and those not obeying ordered to suspend their works.[15]

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[15] Ibid., 164-165.

The objective of the Mexican government was made clear in an official declaration coming early in 1917:[16]

> We, as Mexicans, must contribute to this difficult but fruitful task of the government, with our personal effort, in order to accomplish harmoniously a supreme national aspiration: the economic independence of Mexico and with it the betterment of the homeland.

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[16] "El Petróleo Mexicano. Conferencia Correspondiente a la Escuela Nacional de Ingenieros, de la Serie de Conferencias de Vulgarización Organizada par la Universidad Nacional de México, Dada por el Ingeniero de Minas Teodoro Flores, Professor de Dicha Escuela, la Noche de 15 de Noviembre, Próximo Pasado, en el Anfiteatro de la Escuela Nacional Preparatoria," in Boletín del Petróleo, III, 20.

That declaration and another following in February, 1917, made the Mexican viewpoint plain enough so that what followed had

no reason to be surprising. "The judicious use of the impost can serve also to nationalize the industries which are flourishing in the country...."[17] In April, 1917, Carranza decreed

[17] Joaquín Santaella, "Agere, Non Loqui," in Boletín del Petróleo, III, 108.

that all crude oil production, its derivatives, and gas wells should pay a special stamp tax on the following terms: all crude oil, produced but not consumed in Mexico, and all combustible oil were to be taxed; combustible oil was to pay 10% of its net value per ton, according to its density; the decree specified tax values for varying densities, e.g. gasoline and kerosene at 3%, and crude oil was to bear a similar tax.[18] If

[18] Gobierno de México, El Petróleo de México, 543. This tax was theoretically 10% of the value of the oil, but since the price of the oil in Tampico included the cost of transportation from the well, the real tax amounted to 33-1/3% of crude and 40% of combustibles, according to Doheny. See Investigation of Mexican Affairs, I, 258.

exported, by-products were also to be taxed with their value to be determined by the Secretaría de Hacienda every two months from the average of the previous month's prices based on sales in Mexico or on the average value during the previous month in New York of the product, the cost of transportation to be deducted.[19] Carranza was authorized to occupy the Tampico oil

[19] Gobierno de México, El Petróleo de México, 544.

fields in January, 1918, to enforce obedience by the oil companies to the earlier decrees, but vigorous protests from the United States and Britain along with threatening internal unrest caused him to cancel his orders.[20] February 19, 1918, was

[20] Person, Mexican Oil, 42.

the date of the first regulatory decree issued by Carranza under Article 27 of the constitution of 1917[21] and it was particularly important in the history of Mexican oil controversy because it began the open phase of the struggle between the oil companies and the Mexican government,[22] in which not only fis-

[21] Article 27 is treated separately in detail. See below.

[22] F. Bach y M. de la Peña, México y Su Petróleo; Síntesis Histórica, 14. Hereafter cited as Bach y De la Peña, México y Su Petróleo.

cal but constitutional issues were involved.

On January 29, 1917, the constituent congress at Queretaro had begun discussion of the section of the new Mexican constitution which was to provoke the most violent legal controversy

that Mexico had ever known. Article 27 was to become and to remain for a generation a focal point around which fought, not always in the halls of law, opposing views of government and economy. Yet Article 27 and its implications were not revolutionary, in the sense of being without precedent, in Mexican history. Certainly it would be difficult to deny that the groundwork for the article had begun to be laid as early as the debate of 1905 and that its foundations were dug deep in the legal history of Spain. When the Secretary of the congress presented the proposed article to the constituent body, he prefaced his presentation with a discussion of the law in which it was admitted that so important a problem as property rights could not be fully solved in the short time remaining to the constituent congress.[23] In defending the article it was stress-

[23] The constituent congress had already agreed on a date for adjournment and only two days were left for it to complete its work. See Diario de los Debates del Congreso Constituyente, II.

ed that the right to property was not immutable and was subject to modalities among which was the right of eminent domain, pertaining originally to the nation, which limited private property to rights ceded to individuals, rights which did not include subsoil, waters, or ways of communication.[24] Significantly,

[24] Ibid., II, 774.

the Secretary in his discussion of the article declared that it was generally admitted that corporations could not acquire property with true rights since they were legal fictions.[25]

[25] Ibid., II, 774.

He also stated that the commission in charge of drawing up Article 27, not having had time to make a detailed solution of the agrarian problem which had plagued Mexico for more than a century, was nevertheless presenting certain general bases for a solution because the problem could not be ignored, but, in providing for the destruction of the latifundios, the commission had made the state no more than the guarantor of payment to the dispossessed owners who were to be paid by those receiving the property divided.[26]

[26] Ibid., II, 774-775.

The reading of the article led to a request by a deputy that copies of it be distributed for closer study by the chamber, but the Secretary replied that copies were not then available and that furthermore the dictamen for the article was not complete.[27] A proposal that the law be discussed and voted on

[27] Ibid., II, 778.

at once, made by Deputy Magallon, caused Deputy Félix F. Palavicini to point out that the proposed article did not refer simply to the agrarian question but set up a system of minute regulation of property rights which should require more than two days of discussion and which would compromise great national interests.[28] The question of a quorum's being present arising,

[28] Ibid.

the Secretary ordered a vote to determine the number present, lack of light necessitating the use of four deputies from the floor to count heads in order to see the number voting.[29] The

[29] The proposed article had been presented late in the evening of January 29. Ibid. The contention that the discussion of Article 27 went on in an atmosphere similar to that of a bull ring hardly seems justified, however, even though the chairman of the congress did have to request deputies not to leave the chamber and to stay awake. See Alfredo B. Cuellar, Expropiación y Crisis en México, 91-94.

congress then voted to remain in permanent session until the business before it was completed with discussion on the article to be free.[30] It is interesting to note that when the

[30] Diario de los Debates del Congreso Constituyente, II,

paragraph of the article concerning direct dominion of the nation over the subsoil was offered for discussion no one questioned it.[31] Señor Múgica of the commission which drafted

[31] Ibid., II, 787.

Article 27 declared that the commission had no desire to build a Chinese wall around Mexico and had rejected the idea of permitting ownership of property only to Mexicans, having agreed also that no strong state would ever respect a provision in a weak nation's laws in regard to renunciation of nationality on the part of foreign property holders.[32]

[32] Ibid., II, 796. According to José Brano Ugarte the enthusiastic agrarian Molina Enríquez helped write Article 27 although he was not elected a deputy to the convention. José Brano Ugarte, Historia de México, III, 494.

The final dictamen of the commission which accompanied Article 27 as presented to the congress declared that the members of the commission preparing the article were attempting to undo an oversight of a hundred years in Mexican law produced when only the European concept of individual private property was included in Mexican law and the concept of community held property by villages was ignored, having as its consequence the despoliation of villages of their property and the growth of latifundios.[33] The article was adopted at 3:30 A.M.,

[33] Diario de los Debates del Congreso Constituyente, II, appendix, xxxi-xxxiii.

January 30, 1917.[34]

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[34] Cuellar, Expropiación y Crisis en México, 95.

The great controversy over the meaning of Article 27 began. Vera Estañol maintained that the article was neither properly individualistic nor communistic as it did not invite or guarantee private property and did not put property at the direct service of the community but simply institutionalized the system of armed citizens used during the revolutionary period to seize property and rob.[35] On the other hand it has

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[35] Jorge Vera Estañol, Al Margen de la Constitución de 1917, p. 107.

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been maintained that Article 27 introduced no innovation into Mexican law, for which reason it could not be construed as being retroactive in its correction of vices grown up under another law so long as it respected consummated rights in its application.[36] The vesting of title of ownership of lands

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[36] Eduardo L. Castillo, La Cuestión del Petróleo: Ensayo de Una Nueva Teoría en Defensa del Art. 27, y de Un Nuevo Criterio para Resolver la Cuestión, 16. Hereafter cited as Castillo, La Cuestión del Petróleo.

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and waters in the nation was included in the legal systems of both Puerto Rico and the Philippine Islands after their ac-

quisition by the United States so that its inclusion in the Mexican constitution could not be regarded as completely novel.[37] Anglo-Saxon law since Coke had held that property

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[37] J. Reuben Clark, "The Oil Settlement with Mexico," in Foreign Affairs, reprint, July, 1928, p. 14.

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owners hold dominium utile not dominium directo upon the contents of the subsoil to their property, a view in harmony with the Mexican constitution and one upheld by various decisions of United States courts.[38]

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[38] Ibid.

Three deputies to the constitutional convention opined that the right of eminent domain over Mexican territory pertained beyond contradiction to the nation and that what constituted private property was a right ceded to individuals which did not include a right to the products of the subsoil, waters, roads, or means of communication.[39] An official view

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[39] Cámara de Senadores, El Petróleo, 5.

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of Article 27 in December, 1917, was that it clarified ideas upon property, escaped the contradiction which had existed between the civil code and modern principles of law displayed in

the laws nationalizing church property and the railroads, and provided for agrarian reform, "forgetting the heritage of Rome and substituting for the mandate of ancestral heritage the imperious necessities of progress."[40] Somewhat less sweeping was

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[40] "Proyecto de Ley del Petróleo en los Estados Unidos Mexicanos y sus Fundamentos, Estudiandos en el Departamento de Petróleo," in Boletín del Petróleo, IV, 555. The Association of Petroleum Producers in Mexico found itself at a loss to find precedent in international law for, as it saw the matter, confiscation of vested property rights through substitution of constitutions. See Association of Producers of Petroleum in Mexico, Petroleum Concessions on "Federal Zones" of Mexican Rivers: Their Unconstitutional, Illegal, and Confiscatory Character: Memorandum Submitted to the Secretary of State of the United States of America, 31. Hereafter cited as Association of Producers of Petroleum in Mexico, Petroleum Concessions on "Federal Zones."

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the view that Article 27 was a complete program for agrarian reform, a legal instrument of the agrarian revolution to affect lands, forests, and waters, based on an intelligent interpretation of the history of Mexico and the world.[41]

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[41] Juan Botella Asensi, La Expropiación, 37. Sr. Botella Asensi was a former minister of justice of the Spanish republic.

The Asociación de Constituyentes de 1917 declared in an assembly of 1938 that the Congreso Constituyente de Querétaro was convoked with the purpose of correcting past errors and to establish norms of legal life to destroy privilege and to fix bases for autonomy economically.[42] Manuel de la Peña's

[42] "Interpretó la Constitución," in El Universal, March 24, 1938, p. 1.

view was that the constitution of 1917 was in conformity with social science and historical truth in abandoning the fiction of inherent rights of the social contract and basing itself on the guarantees granted by the code itself, with the enjoyment of property protected by Article 27 even though it sometimes overturned the past where illegally it had made possible grave social damage.[43] On the other hand Article 27 was casti-

[43] Manuel de la Peña, "Nuestra Propiedad Territorial y Su Manera de Ser o Modalidades Según la Historia y el Articulo 27," in Boletín del Petróleo, XXXV, 35-43.

gated as destructive of the fundamental principles of society and as being responsible for the ruin of Mexican agriculture.[44]

[44] Marco Marcelo, Memorandum on the Relations of the United States with Mexico from the Mexican Viewpoint: 1910-1925, typescript, 44.

Gómez Robledo declared that:[45]

> ...article 27, which nationalized the oil bearing subsoil and enforced on land tenure a judicial statue contrary to the psuedo-Roman liberal tradition of 'rugged individualism,' shocked a mentality that regards the untouchability of private property as the most sacred of all human values. This viewpoint, needless to say, holds fully only when it is a matter of dealing beyond the borders of the United States, for when it comes to applying it at home Northern

self-righteousness compromises with measures which, like those of the police power, border on confiscation....

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[45] Gómez Robledo, The Bucareli Agreements, 1.

In a paper presented to the Segundo Congreso Juridico Nacional, González Roa pointed out that nationalization was an integral part of the program of the Labor Party of England, the party destined to control the British government, and that this Anglo-Saxon group upheld the view that property was not immutable but must be subjected to the modalities which progress and the welfare of society required, an opinion supported by the tendency of the whole world toward state control of subsoil wealth.[46]

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[46] Cámara de Senadores, El Petróleo, 84-85.

Once proclaimed, Article 27 made necessary a clarification of property rights which had come into existence before its formation. The most immediate issue it raised was that of retroactivity. If it applied to property rights existing prior to its adoption, then the charge of enacting retroactive legislation could be leveled against the Mexican government and an accusation of unconstitutionality could be made also since the constitution of 1917 forbade any retroactive law. The accuracy of such a charge depended of course on the defini-

tion of property rights which the constitution of 1917 did not define but merely guaranteed,[47] and on the question of whether

[47] González Ramírez, El Petróleo Mexicano, 204.

or not constitutional limitations, such as that forbidding retroactivity, applied to the constitution itself.

In 1939 the Mexican Supreme Court stated that the legislator could dictate laws which were retroactive if they had been established by the constituent body in the fundamental law, because no other right could oppose them. If the constituent body in use of its full powers established cases of retroactivity of the laws, such precepts must be applied retroactively.[48] This decision of the Supreme Court in 1939, in

[48] González Ramírez, El Petróleo Mexicano, 129-130.

effect declaring that the principle of retroactivity in the law rested not with the legislator but with the issuance of judgments by the tribunals and in general with the authorities in charge of the enforcement of law, was the same as that made in the case of the Texas Company in 1921.[49] The Mexican Supreme

[49] Ibid.

Court had, then, interpreted the guarantee against retroacti-

vity to apply to secondary law, holding that the constitution itself could not be included in the phrase ninguna ley used in the provision of the constitution forbidding retroactive law.[50]

[50] Ibid., 194-195.

The Mexican Supreme Court ruled in the Texas Company Case in 1921 that in order for a law to be retroactive it was necessary for it to work upon the past and to break rights acquired under the shelter of previous laws, which to the oil companies seemed to be a decision modifying paragraph IV of Article 27 as a judgment of the United States Supreme Court would have done.[51] In Mexican law nothing could have been more erroneous,

[51] Ibid., 131-132.

for the judgments of the Mexican Court did not limit the court itself which modified its own judgments to maintain "the equilibrium between life and law which otherwise would remain static."[52]

[52] Ibid., 132.

The judgment of 1939, according to González Ramírez, denied no acquired rights but fixed in concrete manner the value of rights acquired before May 1, 1917, by the oil com-

panies.[53] An integral part of the constitution, Article 27 as

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[53] Ibid., 131.

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public law ruled the present as well as the past without its being said that it was being applied retroactively, a universally accepted doctrine in regard to basic law.[54] As a matter

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[54] Esquivel Obregón, "Protección Diplomática de los Ciudadanos en el Extranjero," in Jus: Revista de Derecho y Ciencias Sociales, XIII, 91.

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of fact, Laurent in his work Derecho Civil declared that the principle of non-retroactivity was not a constitutional principle. Nor was it an absolute limit on the freedom of the legislator. The constituent power was absolute in the sense that the powers established by the constitution must be obeyed. A new constitution could abolish rights guaranteed to the citizens by the old, according to Laurent. The principle has been universally admitted that law could have retroactive effect when it was for public interest and that only the state could define what was of public interest.[55]

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[55] Vázquez Schiaffino, Santaella, y Elorduy, Informes sobre la Cuestión Petrolera, 51-52, quoting Laurent.

As Carranza declared in 1919:[56]

> The Revolution has implanted reforms which represent the well-being, the progress, and peace of the Mexican people, renovating their institutions in such decisive respects as land and minerals. The government respects and will consolidate the existing rights but it cannot accept the view that Mexicans must limit their liberty to regulate these things in accordance with their own needs. The force of conciliation and a will to harmony, compatible with the law, will overcome the disagreements which arise always maintaining unblemished our sovereignty.

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[56] Informe de V. Carranza á la Cámara de Diputados 1919, p. 161.

Thus, at one time mining property in Mexico was the property of the king; afterwards, it was property of the individual; later it returned to the crown, and then passed anew to the individual, and passed again to the state. All these mining laws had retroactive effect and attacked acquired rights, if by such rights were understood those created by law. In regard to petroleum the only real question was whether or not the petroleum laws were of public interest. If so, according to Mexico, the state had the right to issue such laws.[57]

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[57] Ibid., 59.

Article 27 was flatly declared to be unconstitutional, however, by some writers on the subject[58] despite the fact

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[58] M. Ortiz de Casas, "El Problema de Petróleo" in El Mundo (Tampico), November 8, 1920, p. 27.

that all parts of a constitution are admittedly equal. It has also been plainly stated that the provisions of Article 27 were retroactive and that the authors of the constitution foresaw complaints against it which they intended to silence by providing for compensation to dispossessed property holders.[59]

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[59] Antonio Manero, México y la Solidaridad Americana: La Doctrina Carranza, 80.

According to one authority the constituent power could make a law violating guarantees of an existing constitution since constitutions were not immutable and could be modified or destroyed by the constituent power, abolishing rights previously guaranteed.[60] In fact, Esquivel Obregón argued that the prin-

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[60] Cámara de Senadores, El Petróleo, 49, quoting Laurent.

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ciple of non-retroactivity of laws was based on the social interests of the people which adopted it and not on the interests of other societies or on abstract principles, being essentially a principle of internal law, not external.[61] The law protected

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[61] T. Esquivel Obregón, México y los Estados Unidos ante el Derecho Internacional, 125.

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vested rights but, according to Plassiol, in his Traite Elementaire de Droit Civil, no one ever succeeded in defining

such rights satisfactority. Plassiol also said that law was retroactive when it modified acquired rights but not when it was limited to destroying simple expectations.[62] According

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[62] Ibid., 126, quoting Plassiol.

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to F. Ricci in Derecho Civil Teórico Práctico the legislator on granting a right or power had not contracted the obligation to maintain forever the power which had been conceded, and Bandry-Lacauttinerie and Houques Fourcade in Traite Theorique et Pratique de Droit Civil have said that once a right had been exercised it had become a true vested right; faculties could not be so called in so far as they had not been exercised.[63]

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[63] Ibid., 128-130, quoting Ricci and others.

All that the principle of non-retroactivity required was that the new law respect the acts of use already consummated, Obregón maintained.[64]

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[64] Ibid., 130.

The argument was advanced that Article 27 conflicted with various treaties of amity, commerce, and navigation defining rights of certain alien nationals to hold property in Mexico since the treaties antedated the constitution and ac-

cording to Article 33 were a part of the supreme law of the land.[65] That problem the constitution met by providing that

[65] Díaz Dufoo, La Cuestión del Petróleo, 285-287.

foreigners had to use Mexican courts and not diplomatic appeals to foreign governments in such cases, as foreigners demanded of Mexicans resident in their territory.[66]

[66] Secretaría de Industria, Comercio, y Trabajo, Documentos Relacionados con la Legislación Petrolera Mexicana, II, 133.

As for property, the constitution of 1917 like that of 1857 did not define it but guaranteed it, leaving the modalities of private property to be found in the common law in force such as the Código Civil de 1884 of the Federal District.[67]

[67] González Ramírez, El Petróleo Mexicano, 204. The Código Civil de 1884 of the Federal District defined possession as the holding of a thing and the enjoyment of a right; property was defined as the right to enjoy and dispose of a thing without other limitation than the law fixed. Such things had necessarily to be in commerce since only things in commerce were subject to appropriation and the code excluded from commerce things which by their nature could not be possessed by any one individual exclusively or which had been declared by law to be beyond appropriation. If possession was accompanied by legal title, then the code declared the possessor to be the proprietor. Ibid., 168-170. See also Secretaría de Industria, Comercio, y Trabajo, Retroactividad de la Constitución de 1917 y de la Legislación del Petróleo, 10.

In determining when property rights existed, the courts of

Mexico fell back on the thesis of vested rights[68] with title

[68] The vested right to the subsoil in Mexican law had been defined as the right to go on making successive occupations of the subsoil, exploring and exploiting freely the oil without the necessity of concessions, appropriating with equal freedom the oil which can be captured without paying a royalty to the state, holding the deposit despite failure to exploit the subsoil, and enjoying assurance that the state will not grant to third parties new concessions on the soil of the surface owner. See González Ramírez, El Petróleo Mexicano, 174.

immutable except in cases involving public utility exercised by means of indemnity.[69] The problem in regard to Article 27

[69] Ibid., 204. In 1857 Article 27 stated previa by indemnification.

was to determine when a property right existed.

One official Mexican view was that Article 27 did not nullify rights to the subsoil acquired between 1884 and 1917 but that it put an end to a faculty not exercised and proclaimed a principle old in Mexican history of the direct dominion of the state upon the subsoil; the view was that Article 10 of the law of 1884 granted not exclusive property of the subsoil oil to the surface owner but only a preferential right to explore the subsoil.[70]

[70] Secretaría de Industria, Comercio, y Trabajo, Retroactividad de la Constitución de 1917 y de la Legislación del Petróleo, 9. This opinion was clearly expressed by the Mexican commissioners to the Bucareli Conference of 1923 when they

pointed out that the Mexican civil code was largely inspired by the Napoleonic Code in which retroactivity was strictly forbidden in regard to acquired rights but in which a sharp distinction was drawn between acquired rights and expectations. They maintained that law in regard to expectations, as laws affecting treasure for example, might be changed without their being retroactive; so in Mexican law the sanctity of a right was not recognized if no positive act in regard to it had been performed. As for the rights of surface owners to the subsoil of their lands, they pointed out that the Mexican government had granted surface owners exclusive right to exploit the subsoil by preference and continued to extend to them the privilege until the enactment of organic law for Article 27, even though many surface owners had not taken advantage of their right to denounce the subsoil of their lands. The Mexican view was that the application of such a system to surface owners who had not performed any positive acts did not deprive them of any right since in accord with Mexican civil law there could be no possession except by an act indicating a desire to possess. See Department of State, Proceedings of the United States-Mexican Commission Convened in Mexico City, May 14, 1923, pp. 17-22.

On the other hand Article 27 did not grant property in the oil deposits to the state but affirmed a superior right, that of dominio directo, which was not surrendered along with dominium utile in the law of 1909 but conserved, giving the state the right of the lord based on sovereignty to oblige the proprietor to pay a canon or pensión in recognition of a superior right.[71] Mining property thus became the privilege

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[71] Iniciativa de Ley Orgánica del Artículo 27 Constitucional en lo Relativo a Petróleo Que Presenta el C. Gral. Cándido Aguilar, Gobernador Constitucional del Edo. de Veracruz a la H. Legislatura del Mismo Estado, Para Ser Enviada por Esta al Congreso de la Unión, 15. A contrary view had it that what the state had upon its territory was not dominium but imperium, not the property but the right that its laws should be obeyed in its territory. Thus, according to this view, when one state ceded land to another, the state receiving the land acquired not a right to the lands but the right to impose on them its orders. See Díaz Dufoo, La Cuestión del Petróleo, 220.

to make explorations, to locate deposits, and to enjoy the fruits of the exploration, to endure or be revoked in accordance with just compensation from the collectivity.[72] Under this interpretation the faculty of revision of all contracts and concessions granted after 1876 which might have produced concentration of lands, waters, and natural resources in the hands of a few, given in the last paragraph of Article 27, was neither retroactive nor revolutionary.[73]

One defense of that view concerning property rights acquired after 1876 maintained that the amendment of Article 72 of the constitution of 1857, which gave the Federal Congress power to issue laws on mining and commerce, did not include the power to legislate in such a way as to affect the dominion of the nation--since Article 117 denied federal authority in any realm but that expressly ceded to it.[74] In fact some question existed as to whether the amendment of Article 72 granting the federal government the power to issue a code for mining and

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[72] Vázquez Schiaffino, Santaella, y Elorduy, Informes sobre la Cuestión Petrolera, 18.

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[73] Cuellar, Expropiación y Crisis en México, 75.

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[74] Castillo, La Cuestión del Petróleo, 12.

commerce obligatory in all the republic was legal, since, according to Article 127, the amending process required that to become effective amendments must have been declared in force by the congress with the declaration published in the Diario Oficial; apparently the necessary congressional decree was never actually promulgated nor published which would have made the amendment ineffective and the subsequent laws of 1884, 1892, and 1909 unconstitutional.[75] In any case the Mexican official opinion was that property rights granted or procured after 1876 were subject to re-examination and modification.

[75] Ibid., 3-5.

The decree of February 19, 1918, was the first attempt by the Mexican government to enforce Article 27 and it laid upon lands and oil contracts completed before May 1, 1917, which had for their object the leasing of land for the exploitation of oil or permission to use this for a title, a special tax on the annual rent named in the contract at the following rates: lands rented for five pesos per hectárea or less at 10%; for more than five pesos to ten pesos per hectárea, 10% on the first five pesos and 20% on the next; for more than ten pesos, 50% on all above ten pesos.[76] Royalties were to be

[76] Manterola, La Industria del Petróleo en México, 335-336.

taxed 50% and owners of the surface were taxed annually five pesos per hectárea on oil lands, having to pay in addition a royalty of 5% of production, if exploiting the deposit.[77]

[77] Ibid.

This amounted to a double tax on the oil industry.[78]

[78] Benjamin H. Williams, Economic Foreign Policy of the United States, 128.

Owners of land who desired to exploit the subsoil of their lands themselves and who had not concluded a contract, as well as the last concessionary of the rights of exploitation in contracts, were to declare within three months their contracts with the Secretaría de Industria, Comercio, y Trabajo which was to review them and reject those that were not valid or contained unjustifiable data; after three months all oil deposits not registered were to be considered vacant.[79]

[79] Gobierno de México, El Petróleo de México, 545.

This decree affected contract and property rights acquired before 1917 and prior to the new constitution; it immediately provoked a controversy over property rights between the Mexican government and property holders, very largely foreigners,

which resulted in eventual diplomatic protests from their respective governments.[80] In April, 1918, England protested to

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[80] That such protests were not unexpected by Mexico is evidenced in an article in an official publication of the Mexican government in February, 1917, in which it was declared that: ...the judicious use of the impost can serve also to nationalize the industries which are flourishing in the country; "El Aguila" is English and the "East Coast Oil Company" of the same nationality as the Southern Pacific although it may be registered and organized in conformity with our laws; indubitably the first step is the one which will give rise to diplomatic intervention, but it is necessary to continue in the same path until the interests of the industrialists coincide with the public interest which will be equivalent to complete nationalization.... See Santaella, "Agere, Non Loqui," in Boletín del Petróleo, III, 105-108.

Mexico concerning the decree of February, 1918, declaring that she considered it confiscatory and arbitrary in character and in open conflict with the laws and contracts in force, particularly wherein it tried to separate subsoil rights from surface ownership.[81] The French government sent Mexico a note in May,

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[81] Díaz Dufoo, La Cuestión del Petróleo, 274-275.

1918, declaring that the imposts laid by the decree of February 19, 1918, were heavier than in any other country and in some cases were equivalent to confiscation, being based on principles of law very different from those in force when investments were made.[82] The United States also notified Mexico of its

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[82] Ibid., 275-276.

objections on April 2, 1918, in a note protesting the apparent intent of the tax to sever ownership of subsoil petroleum deposits from possession of the surface.[83]

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[83] Investigation of Mexican Affairs, I, 266.

Mexico's reply to France was very different from the answer to England. The note to France was conciliatory and promised protection to French investors who felt the imposts to be excessive; the correspondence with Britain declared that the decree was the act of a sovereign government and relief from it could come only through the methods provided by the law of Mexico.[84] For foreigners who felt the law unjust, Mexi-

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[84] Díaz Dufoo, La Cuestión del Petróleo, 276-278.

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co pointed out her courts were open to suits, but as for the right of a foreign government to protest such acts on the part of another sovereign, Mexico denied it, just as Britain would deny the right of foreign countries to protest her heavy war taxes which weighed heavily on foreigners.[85] If new laws in

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[85] Ibid.

Mexico seemed to conflict with previous ones, it was Mexico's view that public development demanded changes in law to fit

the modern concept of property as a social function linked with the prosperity of the state.[86] The Mexican contention

[86] Ibid., 279.

was that Carranza was not denying legitimate property rights but that the social nature of the Mexican revolution made necessary the institution of reforms so that constitutional order could be restored in the republic.[87]

[87] Manero, México y la Solidaridad Americana: La Doctrina Carranza, 80.

The nature of the United States' communication with the Mexican government in April, 1918, was indicated in Carranza's report to the Mexican Congress on foreign affairs in September, 1918. At that time he revealed that the American note had declared that the government of the United States might protect the interests of citizens of that country who suffered from the terms of the decree of February 19, 1918, and that its intention was to protect the endangered interests of its citizens, respecting the neutrality of Mexico only in places where such protection might not be necessary.[88]

[88] Mexican Foreign Office, Diplomatic Dealing of the Constitutionalist Revolution of Mexico, 427.

Opposition to the decree within Mexico was vigorous with 95% of the producers in Mexico refusing to obey the terms of the act since it was regarded as unconstitutional. This was based upon the claim that Carranza's power to legislate by decree had been authorized by the Congress only in the field of finance; furthermore, to consent was regarded by the companies as submission to confiscation of property rights.[89]

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[89] Investigation of Mexican Affairs, I, 267.

The attitude of the holders of oil lands in Mexico was typified by Edward F. Doheny. He declared before the United States Senate committee investigating Mexican affairs that when he made his first large-scale purchase of Mexican land his lawyer advised that the subsoil rights be specifically acquired in order to avoid possible future legal complications in the event of the discovery of subsoil wealth and that this policy was followed in all his purchases of land in Mexico.[90]

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[90] Ibid., I, 211.

Doheny was regarded as foolish for having paid $1.75 for land not worth $.75 per acre as farm land.[91] He declared that the

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[91] University of Chicago. Norman Wait Harris Memorial Foundation. Third Institute, June 29 to July 16, 1926, mimeograph, 141.

only concession he ever received from the Mexican government was one granting a new industry the privilege of importing material free of duty for the development of the industry and that this was the only type of concession ever granted.[92]

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[92] Investigation of Mexican Affairs, I, 213.

Doheny also declared that since his oil company supported its government by taxes it was entitled to protection by that government as a matter of right even if the constitution and laws of the country where the company worked did not supply that protection.[93] Extent of opposition to the decrees was

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[93] Ibid., I, 248.

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demonstrated by the fact that eighty suits of amparo had been taken before the Mexican courts by 1919.[94]

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[94] Vázquez Schiaffino, Santaella, y Elorduy, Informes Sobre la Cuestión Petrolera, 4.

Despite resistance to the government, Carranza issued a decree in July, 1918, opening "free" lands to denunciation by those desiring to acquire permits to exploit the subsoil. "Free" lands were those not previously titled for oil exploitations, or those not declared with the Secretaría de Industria,

Comercio, y Trabajo in compliance with the decree of February, 1918. Excluded were national lands, lands of common use, or ejidos which were not open to denunciation.[95] Those denouncing

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[95] Gobierno de México, El Petróleo de México, 545-546.

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oil deposits and receiving concessions to exploit them were to justify such concessions before the Departamento del Petroleo by demonstrating that exploitive work had begun within three years.[96] As the six months allowed for adherence to the

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[96] Ibid., 548.

February decree neared its close in August, 1918, Carranza found it necessary to modify the decrees of February and July, 1918. The decree of August 12, 1918, protected recognized oil deposits from denunciation by third parties if some capital for exploitation or exploration had been invested, even such lands as had not been registered by August 15, 1918. Proprietors of such deposits were to be permitted to continue exploiting their concessions if they paid the five pesos rent per hectárea and the 5% royalty on production, or if the contract for the concession antedated May 1, 1917, the proprietor was to continue to hold his property by the payment of the tax levied on oil contracts. Moreover, the time for making denunciations on land registered with the Secretaría was extended

and foreign companies were to be able, if they had declared their lands, to denounce them and to continue their operations although title could be issued only to a Mexican company organized under Mexican law to which the denunciatory company might cede title.[97] Various United States companies which had

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[97] Gobierno de México, El Petróleo de México, 549-552.

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not accepted the decrees of 1918 relative to imposts were granted provisionally the right to drill new wells, provided they promised to comply with the law to be issued by the Congress under Article 27 for oil. This permission was an act of benevolence on the part of the Mexican government after numerous requests from the government of the United States to Mexico and was designed to permit the companies to fulfill commercial obligations.[98] In reality, Carranza's decrees were

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[98] Vázquez Schiaffino, Santaella, y Elorduy, Informes sobre la Cuestión Petrolera, 5.

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not enforced and most of the companies continued their operations, merely suspending new drilling.[99] The major oil com-

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[99] Bach y De la Peña, México y Su Petróleo, 15. But the Carranza decrees were influential and popular within Mexico itself. When the Committee of 1924 received from the Departamentos de Hacienda y de Industria, Comercio, y Trabajo a memorandum suggesting a means of ending the struggle between the oil companies and the government, the memorandum stated the

government would continue the policy of the Carranza decrees, which provoked a protest from the oil company representatives. Pani, Secretario de Hacienda, explained that the reference was inserted to make the settlement seem a natural development of precedent and was primarily for home consumption. Mimeographed, unbound copy of the minutes and correspondence between a committee representing the oil companies (Chester O. Swain, A. D. Andrews, and Dean Emery) and the Mexican government in a conference in September-October, 1924, to discuss ways of encouraging the Mexican oil industry, 79. Hereafter cited as Minutes of the Committee of 1924.

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panies' opposition to the Carranza decrees was unanimous, but independent oil operators, led by United States Senator Joseph Guffey and E. W. Marland, fought against the "big five" oil companies. The independents pointed out that it was no coincidence that the Mexican Supreme Court and a congressional committee should both make declarations concerning Article 27 in 1921 while a committee of men from the major oil companies was in Mexico. They also pointed out that the rulings protected properties held by the major oil companies without aiding the independents or actually reversing the policy of the Mexican government toward property.[100]

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[100] The Status of Americans in Mexico: Bulletins of the American Association of Mexico, 48. See also Betty Kirk, Covering the Mexican Front: The Battle of Europe Versus America, 174. Hereafter cited as Kirk, Covering the Mexican Front.

As a matter of fact, representatives of the major foreign companies having investments in Mexico were consulted by the Department of Petroleum before the decrees of 1918 were issued,[101]

[101] Vázquez Schiaffino, Santaella, y Elorduy, Informes sobre la Cuestión Petrolera, 3. The representatives were Señores Garfield and Roahdes [sic.]

but their opposition was not mitigated by the act.

The effort of Carranza's government to uphold the principle that oil in the subsoil belonged to the nation meant the establishment of a superior right on the part of the government which was to be recognized by the private exploiter through the request to the government for concessions. The system of concessions thus designed during Carranza's executive leadership of Mexico affected a wide variety of property interests. After 1885 the Mexican government's executive with the approval of the legislature had begun to abandon the system of concessions which had preserved the dominion of the nation, substituting a system of contracts in which the will of the contracting parties, and not the law, fixed the terms of exploitation.[102] With the revolution direct dominion and the system of

[102] De la Peña, El Dominio Directo, II, 13-14.

concessions were slowly re-established, first by the regalía in the form of a production tax in 1912 under Madero and then by the Carranza decrees.[103]

[103] Ibid., 16-17. In 1939, however, Article 27 was amended

to forbid absolutely the issuance of oil concessions in the future. "The Truth about a Recent Amparo," in El Nacional, February 2, 1942, p. 1.

The evolution of concessionary law under federal control was slow in Mexico. During a great part of the nineteenth century, constitutions of a federal type were in force and left to the states the making of mineral laws. Most of these laws were simply fiscal with the purpose of adding to the state's income,[104] and it was not until 1857 that the federal

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[104] Palavicini (ed.), México: Historia de Su Evolución Constructiva, IV, 406.

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government in Mexico was given jurisdiction over the lands and waters of the territory, that power previously having been reserved to the several sovereign states which, where specific state legislation did not exist, continued to follow the Spanish colonial laws or laws of Castille.[105] The constitution of 1857

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[105] Association of Producers of Petroleum in Mexico, Petroleum Concessions on "Federal Zones," 9.

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gave the federal government power to issue laws concerning general ways of communication and to control the public lands; in 1888 organic law enforcing this constitutional provision was enacted, defining navigable rivers and lakes as general ways of communication and all boundary rivers or lakes between

two states, regulation of which was left to the federal executive.[106] In 1894 a law was enacted which provided that a zone

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[106] Ibid., 11. Mexican federal laws affecting distribution of public lands began with Benito Juárez and a law of July, 1863, which provided a maximum of 6175 hectáreas as the limit for private holdings in the public lands, set moderate rates for the purchase of public land on terms, and required owners to maintain one settler for each two hundred hectáreas. In 1875 a colonization law provided for sale of lands at low rates and for long terms with colonies exempted from all forms of taxation. In 1883 another colonization law was passed keeping the 2500 hectáreas limitation on individual holdings but providing that surveying companies should receive as compensation one-third of the land surveyed. In 1894 a waste land law was passed removing the 2500 hectáreas limitation but the terms of the law were suspended by the Land Law of 1909. In 1912 an executive decree provided that national land should be granted to Mexicans on terms of payment but no more than two hundred hectáreas should be granted to any one individual. See Branch, "Brief Analysis of Concessions in Mexico," in Mexican Year Book, 1920-1921, pp. 8-9.

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of ten meters from each bank of navigable rivers and five on floatable rivers should be inalienable in title from the federal government; the law did not specify any retroactive intent concerning lands whose title had already passed to third parties.[107] The federal constitution was amended in 1901 to

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[107] Association of Producers of Petroleum in Mexico, Petroleum Concessions on "Federal Zones," 12.

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give the government power to determine which waters were of federal jurisdiction and to issue laws concerning their use; organic law enforcing the constitutional provision was issued

in 1910.[108]

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[108] Ibid., 11.

The previously-mentioned oil law of 1901 was enacted giving the federal executive power to issue concessions for exploitation and exploration of the subsoil of vacant public lands and lakes, lagoons, and salt-water bayous under federal jurisdiction, expressly recognizing the right of private owners to effect oil works on this land.[109] In 1902 the congress of

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[109] Association of Producers of Petroleum in Mexico, Petroleum Concessions on "Federal Zones," 13. As a matter of fact Maximillian had decreed on July 6, 1865, that salt mines, lakes, wells or springs of salt, coal, bitumen, petroleum, etc., could not be exploited without an express and formal concession first being obtained from the proper authorities of the government. This drastic expansion of national control did not of course survive Maximillian. See Manterola, La Industria del Petróleo en México, 4.

Mexico provided that all rivers of federal jurisdiction were in federal zones, regardless of whether the riparian lands were public land; unless this law was meant to be retroactive in effect, it merely defined exactly the easement to which common waterways of communication were subject and therefore affected only the surface.[110]

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[110] Association of Producers of Petroleum in Mexico, Petroleum Concessions on "Federal Zones," 14-16.

The water law of 1910 was of some significance in the evolution of Mexican concessionary law; it was issued by Porfirio Díaz and ordered old proprietors of surface water rights to exchange them for only preferential rights on pain of losing their rights altogether, this even though water rights had never been subject to the subsoil laws of Spain or Mexico.[111]

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[111] La Cuestión Petrolera Mexicana: El Punto de Vista del Ejecutivo Federal, 37.

The law permitted appeal to the courts from administrative action and the granting of concessions to other than Mexican corporations was forbidden.[112] Petitions for concessions were

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[112] Branch, "Brief Analysis of Concessions in Mexico," in Mexican Year Book, 1920-1921, pp. 5-6.

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to be published for sixty days in official journals, sixty days were allowed after the filing of the original claim for counterclaims, bond had to be put up to guarantee performance, and conditions of grants were detailed in a contract between the executive and the concessionary.[113] Water concessions granted

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[113] Ibid., 5.

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that were in the nature of public utility and for a term less than sixty years were subject to governmental acquisition at

a valuation fixed by experts, and in franchises granted for over a sixty year period on the expiration of the contract immovables reverted to the nation with the payment of a fair valuation.[114] One of the authors of the Ley sobre Aprovechamiento de Aguas de Jurisdicción Federal de 1910 declared that it did not include lands occupied by such waters of common use because that was not the intention of the lawmakers.[115] The law broadened the definition of waters of federal jurisdiction, extending it to include all waters flowing from one state to another and the affluents of those streams.[116] Since the law of 1902 put all rivers of federal jurisdiction within the federal zones, the area under federal supervision was greatly extended by the broadening of the definition of waters of federal jurisdiction, although the question of previously-acquired rights was not settled. Under Spanish law owners of lands lying along streams had held title to the water's edge subject only to public easement on floatable or navigable streams and

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[114] Ibid., 12-13.

[115] Vera Estañol, Cuestiones Jurídico-Constitucionales, 26.

[116] Association of Producers of Petroleum in Mexico, Petroleum Concessions on "Federal Zones," 11.

owners of brooks and creeks owned bank and bed free of easement.[117] The constitution of 1917 further extended the defi-

[117] Ibid., 20.

nition of waters of federal jurisdiction to include intermittent streams whose waters in their principal branch crossed two or more states.[118]

[118] Ibid., 18.

The pattern for the granting of concessions in Mexico was set by the railroad franchises which from 1837 to 1873 were issued with exclusive and perpetual privileges by special grant. The first regulatory law was enacted in 1881 and provided for almost complete federal control of railways, telegraphs, and telephones, with a state monopoly set up for the telegraph.[119] Railway franchises granted in this period pro-

[119] Branch, "Brief Analysis of Concessions in Mexico," in Mexican Year Book, 1920-1921, p. 7.

vided for the reversion to the nation of the unencumbered property at the end of ninety-nine years when rolling stock was to be evaluated by experts and paid for. The operation of the lines was to be in the hands of the concessionary under

governmental supervision with rates fixed by it.[120]

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[120] Ibid.

The concession granted in 1849 by the Mexican congress authorizing the construction of a rail line from Vera Cruz to the Pacific included a provision that foreigners connected with the company had to renounce their right to diplomatic protection as foreigners, and in 1854 a concession for a railway from Presidio del Norte to Guaymas provided that foreign shareholders or employees of the company would have no other rights or means of establishing them than Mexican law gave to Mexicans.[121] Foreigners seeking protection from their govern-

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[121] Howland (ed.), Survey of American Foreign Relations, 284-285.

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ments would forfeit their concessions. In 1867 Juárez granted a concession to an English group to complete the railway from Mexico City to Vera Cruz, providing that company and shareholders and employees would not claim foreign rights even if denial of justice were alleged; such provisions or similar ones were included in contracts granted to the Mexican National Railway.[122]

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[122] Ibid.

The railroad act of April 29, 1899, limited franchises to ninety-nine years with the provision that on the expiration of the period the property reverted unencumbered to the nation which paid only for the rolling stock. On the granting of a franchise on a major line a deposit of 150 pesos per kilometer, measured straight, was required with forfeiture of the concession resulting from failure to begin the survey within the term set, inability to complete in any year the number of kilometers specified, interruption of public service except by force majeure, or illegal transfer of concessions.[123]

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[123] Ibid., 7-8.

On April 29, 1894, the Mexican government issued a public lands law which authorized the executive to grant contracts for the exploitation of the wealth in timber, rubber, and other resources on national lands.[124] Under the Díaz regime concessions were liberally granted to virtually all who asked but supervision increased with time. Carranza decreed that concessions in federal zones for oil exploitation should go only to natural persons or companies of Mexican citizenship and should be limited to ten years duration. Such concessions were to have a maximum length of ten kilometers with the con-

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[124] Ibid., 4.

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cessionary paying one hundred pesos per kilometer and a royalty of 5-20% of daily production, with the added requirement that he was to drill one well for each two kilometers of the grant within five years.[125]

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[125] Association of Producers of Petroleum in Mexico, Petroleum Concessions on "Federal Zones," 5.

President de la Huerta during his interval as executive of Mexico issued large numbers of concessions to third parties in the federal zones regions of creek and stream beds which were used to drain the adjacent oil fields held by the oil companies already operating in Mexico. As a result the United States companies complained to the American State Department.[126]

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[126] Ibid., 2. The association pointed at a well of the Guffey interests (Compañía del Agwi, S.A.) which was drilled in the bed of Tancuchin Creek in the Tuxpam field and which attained a capacity of 50,000 bbls., off-setting wells of El Aguila and Mexican Gulf. In the Committee of 1924, designed to encourage the Mexican oil industry, the major companies asked that the government not grant permits to drill in the federal zones since such permits frequently drained deposits discovered by companies at great expense. Alberto J. Pani, Secretario de Hacienda, generally assented, but José Vázquez Schiaffino declared the government should not agree so to limit itself. See Minutes of Committee of 1924, 71-72. Pani also declared later that the president was so wedded to the idea of federal zone concessions that he doubted whether Obregon would agree to a change in it. The oil company representatives maintained federal zones were so narrow that it was unlikely large deposits of oil existed under them but must come from nearby lands, in reply to which Pani pointed out that previously the companies had objected to having their wells spaced widely, arguing once that in Cacalilao each well was a separate pool and permits should be granted for extremely close drilling. The government did agree that owners or operators working lands

contiguous to federal zones would be given preference in the granting of concessions. See Minutes of the Committee of 1924, p. 81.

Both Carranza and De la Huerta opened the door to oil land denunciation to persons without sufficient capital to undertake full scale operations and granted concessions to political friends.[127]

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[127] Díaz Dufoo, La Cuestión del Petróleo, 370. In 1937 there were 14,690,237 acres secured under confirmatory concessions and 4,143,291 acres under ordinary concessions. See Gómez Robledo, The Bucareli Agreements, 97.

CHAPTER IV

MEXICAN MINERAL LAW: FINAL PHASE

The Mexican Senate in August, 1919, began to discuss a proposed organic law to implement Article 27. The principal point of discussion was the nature of property rights in the subsoil. León Salinas, sub-secretario of the Secretaría de Industria y Comercio, declared that owners of oil lands could not guarantee that oil existed in the subsoil of their land nor could they prevent the oil which might exist beneath their lands from being extracted by another individual who might drill a well some distance away if subterranean channels connected the deposits; hence, according to the civil code, perfect property rights could not exist to the oil in the subsoil and surface owners could not claim to be dispossessed of property when such subsoil oil was nationalized.[1] Deputy Aguilino

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[1] Cámara de Senadores, El Petróleo, 90.

Rama stated that the law of 1909 gave the surface owner the right to enjoy oil found in the subsoil without permission of any authority but did not require him to take possession of it. The surface owner did not therefore acquire a vested right because the two things necessary to have property in an object according to law, i.e., that it be tangible and that it be subject to transfer, did not exist in oil in the subsoil.[2]

[2] Ibid., 92. The Mexican government has pointed out that the courts of Pennsylvania, Indiana, and the Supreme Court of the United States have ruled that oil does not become property of the surface owner until it is brought to the surface and possessed; the Supreme Court of the United States has also declared that the property of the owner of lands containing oil and gas is not absolute in the oil and gas until they are brought to the surface and are actually in his grasp. See Government of Mexico, The True Facts, 135, 148.

Rafael Zubaran was authorized to expound the view of the President and announced that both he and Carranza believed that the nation was more sovereign when it respected rights and interests contracted in conformity with its own acts and that, consequently, if the nation legislated legally in the mining law of 1909, declaring the subsoil to be the property of the surface owner, such acquired rights, if truly acquired, should be respected and not attacked by nationalization.[3]

[3] Cámara de Senadores, El Petróleo, 93. In this respect it might be pointed out that Carranza's attitude toward Article 27 was not that of the more radical political leaders of Mexico. Roberto Haberman said that the original draft of the constitution did not contain such an article as Article 123 (the labor code) and that Carranza opposed Article 27 at first, accepting it at last because of Villa's power. See University of Chicago, Norman Wait Harris Memorial Foundation, Third Institute, June 29 to July 16, 1926, mimeograph, 47. Various decrees of Carranza from 1917-1918 indicated that in his mind the powers granted in Article 27 to revise concessions and contracts made after 1876 affecting land, waters, and resources applied only to those which took immense extensions of land from the public domain to benefit private concessionaries. See Vera Estañol, Cuestiones Jurídico-Constitucionales, 136. In fact in December, 1918, Carranza asked that Article 27 be amended to prohibit the closing of private property of general interest by work stoppage, strike, or other similar cause without previous authorization by the executive, which in turn was

to be permitted to operate such businesses, defined to include common carriers, communication systems, mining, farms, medical and drug supply houses. See Vera Estañol, Al Margen de la Constitución de 1917, pp. 72-74. Carranza, one writer holds, found the precepts in his own constitution too advanced for his comprehension and failed to carry out the law fully. See Antonio Bahamonde, México Es Así, 100.

Further debate on the proposed organic law produced the opinion expressed by one senator that the constituent power was not limited; to this another senator retorted that while one people might accept the destruction of interests, the people with whom they came in contact by force of nature might not, so that Mexico could not legislate as if she were the only country in the world.[4] Pastor Rouaix, one of the authors

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[4] Díaz Dufoo, La Cuestión del Petróleo, 318-319.

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of Article 27, replied to questions from officials of the Secretaría de Industria, Comercio, y Trabajo that the article meant the complete property of the nation upon combustible minerals, solid, liquid, or gaseous, was inalienable and imprescriptible with their use to be ceded only by concessions.[5]

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[5] Mendoza, La Controversia del Petróleo, 183, fn.

The division of opinion within Mexico as to how Article 27 should be enforced was coupled with vigorous opposition from abroad. At that time an investigation of Mexican affairs

was being conducted by the United States Senate under the chairmanship of Albert B. Fall who said that if Article 27 were applied only to government-owned land neither he nor any one else could truly object to it, but Senator Fall added that even if a Mexican law guarranteeing titles were passed, there was danger that it might be invalidated by later changes in the law--a rather curious view to be taken of the law-making power of a sovereign state.[6] Similar to Senator Fall's views

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[6] Investigation of Mexican Affairs, I, 176.

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were those expressed in January, 1921, by the American Association of Mexico which adopted a program for Mexico in which it recommended that Mexico return all properties belonging to United States citizens confiscated or administered by the Mexican government, acknowledge her duty to reimburse United States citizens for damages suffered in the revolution after 1910, eliminate all provisions of the constitution of 1917 that had as their effect the confiscation of property of United States citizens, eliminate the provisions of the constitution that restricted the development of United States enterprise in Mexico or agree not to apply such restrictions to United States citizens, and remove all other government restrictions on legitimate United States enterprise.[7]

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[7] The Status of Americans in Mexico: Bulletins of the American Association of Mexico, 5.

After November 17, 1921, discussion of the proposed law stopped until 1922 when a new commission was named which presented its dictamen in December, 1922, in which the plan suggested in 1919 was altered by the substitution of the concession-contract for the prior-denunciation method of securing subsoil rights, and vested rights were to be confirmed by the issuance of concessions rather than nullified by retroactive application of the law.[8] No final action was taken upon that proposed organic petroleum law.

[8] Cámara de Senadores, El Petróleo, 95-97.

The effort to pass an organic law for Article 27 was resumed in April, 1923, when the Chamber of Deputies approved a bill providing that petroleum deposits were under direct dominion of the nation and were subject to the proposed law; that such dominion was imprescriptible and inalienable; that the right to explore and exploit the subsoil was to be acquired from the nation through the Secretaría de Industria, Comercio, y Trabajo by means of concessions not to exceed fifty years in duration; that the surface owner who had begun works of exploition prior to May 1, 1917, could confirm his rights by contract-concessions; that contracts made between private individuals before May 1, 1917, for the express purpose of exploitation of the subsoil could be confirmed by contract-concessions; that such confirmation of rights must be sought with-

in the term of three years or the rights be forfeited; that contracts or concessions to exploit the subsoil made after May 1, 1917, would be confirmed but under the terms of the proposed law; that controversies arising under the law should be settled in the federal courts; and that the petroleum industry was of public utility.[9] The action of the Cámara de

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[9] Cámara de Senadores, El Petróleo, 317-322. According to Oscar Rabasa:

> Public utility in Mexico has been defined by the Mexican Supreme Court in three senses: public utility in the strict sense when the thing expropriated is destined for direct public service; social utility which is characterized by the immediate necessity of satisfying a social class and through it the whole; and national utility which requires the meeting of a necessity for the country in the face of situations which affect it as a political entity or an international entity. See Sindicato de Trabajadores Petroleros, La Cuestión Petrolera, 56.

Diputados was in reality the passage of a modified form of a law passed by the Senate in December, 1919. On November 12, 1923, the Senate in its turn passed a new organic law for Article 27 which omitted the declaration that the petroleum industry was of public utility, exempted from denunciation lands held under contracts providing for petroleum exploitation executed prior to May 1, 1917, or on which oil works had begun before that date, and changed the terms for the granting of new concessions, providing for fifty-year exploitative concessions and permits for one year's exploration.[10] Neither of

[10] Ibid., 332-340. It should be observed that Mexico's difficulties with foreign countries were in a state of crisis during this period and that on May 14, 1923, the Bucareli conferences began, out of which came the agreement that led to the recognition of the Obregón government by the United States. That conference is treated separately and in detail below, Chapter VI.

the bills passed by single houses of the bicameral federal legislature became law in 1923, due in part to disagreement between the houses but primarily to the delicate state of Mexico's relations with the United States and the desperate need of Obregón's government to secure recognition by the United States. It was in that period that the Bucareli conference was taking place in Mexico City. It was not until 1925 that a third effort to implement Article 27 was made. In the meantime conflict between the law of 1909, the Carranza decrees, and Article 27 went on in court, chancellery, and chamber.

The attention of the government of the United States was drawn to Mexico in late 1925 when it became known that the Mexican government was preparing to present to Congress another plan for the implementation of Article 27. An unofficial note to the Secretario de Relaciones Exteriores of Mexico on November 17, 1925, suggested that the American Secretary of State felt that the law proposed might becloud Mexican-American friendship since appeals from American property owners would inevitably follow the enactment of the law proposed, which appeals the American government would be bound to uphold to the

utmost.[11] The American Secretary of State felt that the nego-

[11] In this connection the negotiations to encourage the Mexican oil industry held in 1924 in secret between representatives of the oil companies and the Mexican government are enlightening. In the minutes of these meetings Secretario de Hacienda Alberto J. Pani declared American land owners of lands on which no positive act had been taken must agree to the part of Article 27 waiving diplomatic protection. Dean Emery stated the oil companies would not object but the United States State Department might. Pani declared the State Department would not object because as a matter of international law, as interpreted by the United States, the State Department would not consider itself bound by such an agreement and would determine for itself when it should intervene. See Minutes of the Committee of 1924, 106.

tiation of a treaty of amity and commerce between the two nations might make it possible to avoid anything which would affect good relationships between them.[12] The Mexican govern-

[12] Correspondencia Oficial Cambiada Entre los Gobiernos de México y los Estados Unidos con Motivo de las Dos Leyes Reglamentarias de la Fracción Primera del Artículo 27 de la Constitución Mexicana, 7-8.

ment ignored the rather premature protest and December 26, 1925, enacted the first petroleum law for Mexico passed since the law of 1909, the first written under Article 27 and attempting to implement that paragraph of the constitution of 1917. Thus ended the confusing period from 1918 to 1925 when the industry was primarily regulated by a series of presidential orders.

According to the Mexican government, in the writing of the law the oil companies had been consulted and had been given the

opportunity to suggest modifications in the law so that its terms were well known to the companies before its issuance.[13]

[13] Secretaría de Industria, Comercio, y Trabajo, "Monthly Review of Petroleum Activities in Mexico Up to July 10, 1927," in Publicación Quincenal, Órgano Oficial de la Secretaría de Industria, Comercio y Trabajo, Ano 1, no. 13 (September 10, 1927), 72. The law was to go into effect after March 30, 1926.

The new petroleum law limited the maximum sizes of single concessions. In known oil lands new concessions were to be no larger than one hundred thousand hectáreas, in unexplored land two hundred thousand hectáreas, and to comply with the requisite for regular works to hold titles, concessionaries had to establish that in their concessions at least five thousand hectáreas had cost five pesos per hectárea; ten thousand hectáreas had cost four pesos per hectárea; twenty-five thousand hectáreas three pesos each; fifty thousand hectareas two pesos each; or one hundred thousand hectáreas one peso each.[14] The

[14] Manterola, La Industria del Petróleo en México, 35.

petroleum industry was defined as the discovery, reduction to possession, conveyance by pipe lines, and refining of petroleum, in regard to which all matters were declared to be under federal jurisdiction with the industry to be regarded as a public utility.[15] The law reaffirmed that ownership of subsoil petro-

[15] Charles Wilson Hackett, "The Mexican Revolution and the United States, 1910-1926," in World Peace Foundation Pamphlets, IX, 425.

leum was inalienably vested in the nation, that works necessary in the exploitation of the petroleum must be authorized by specific federal grant from the executive, that such authorizations could be obtained by foreigners and Mexicans under terms of the law. It then declared:[16]

> Art. 12. Concessions granted by the Executive of the Nation in accordance with previous laws shall be confirmed without expense whatsoever, with subjection to the provisions of this law....
>
> Art. 14. The following rights will be confirmed without any cost whatsoever and by means of concessions granted in conformity with this law;
> I. Those arising from (que se deriven de) lands in which works of petroleum exploitation were begun prior to May 1, 1917.
> II. Those arising from (que se deriven de) contracts made before May 1917 by the surface owner or his successors in title for express purpose of exploitation of petroleum. The confirmation of these rights may not be granted for more than 50 years....
>
> Art. 15. Confirmation of the rights to which Arts. 12 and 14 of this Law refer, shall be applied for within the period of one year, computed from the date of the going into effect of this Law; that date having passed, said rights shall be considered as renounced....

[16] Documents Relating to the Petroleum Law of Mexico of December 26, 1925, with Amendments of January 3, 1928, p. 9.

According to the Mexican government, despite the provisions of Article 14 of the law, Royal Dutch and Transcontinen-

tal Oil both requested confirmation of their pre-1917 rights under its terms.[17] Such acquiescence was short-lived and toward the end of 1926 the oil companies refused to request concessions, Royal Dutch paying little attention to the concessions which it had requested and refusing to obey the law.[18]

[17] Secretaría de Industria, Comercio y Trabajo, "Monthly Review of Petroleum Activities in Mexico up to July 10, 1927," in Industria y Comercio, Publicación Quincenal, Organo Oficial de la Secretaría de Industria, Comercio y Trabajo, Año 1, no. 13 (September 10, 1927), p. 72.

[18] Ibid.

The Mexican government claimed in 1927, however, that 125 of 147 companies had secured confirmatory concessions under the terms of the new petroleum law.[19] Other foreign investors refusing to accept the new petroleum law included Cía. Petrolera del Agwi (Atlantic Gulf Oil Corp.); La Atlántica Compañía Mexicana Productora y Refinadora de Petróleo, S.A.; D. W. Johnson y Cía., Succesores (Atlantic Refining Co.); Cía. Petrolera Tamaulipas S.A. (Humble Oil and Refining Co.); Richmond Petroleum Co. of Mexico, S.A. (Standard Oil of California); Cía. Mexicana de Petróleo "El Aguila," S.A. (Anglo-Mexican Petroleum

[19] Person, Mexican Oil, 45.

Company); and Cía. Transcontinental de Petroleo, S.A. (Standard Oil of New Jersey). Those companies, with Royal Dutch Shell (Cía. Mexicana Holandesea "La Corona," S.A.), controlled 90% of the actively producing oil lands acquired before 1917 and produced approximately 70% of Mexico's oil.[20] President

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[20] Oil Concessions in Mexico, 4. It is interesting to note that one statement has it that from 1917 to 1938 some 77% of the oil lands given in concession to individuals, covering 40% of the surface presumed to shelter oil deposits, escaped the rule of Article 27. Sindicato de Trabajadores Petroleros, La Cuestión Petrolera, 41.

Calles shortly found the United States threatening intervention and the oil companies provoking a financial and economic crisis by cutting production in half from 1921 to 1927 and by withdrawing their bank deposits.[21] The companies also refrained

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[21] Secretaría de Educación Pública, Sobre el Petróleo de México: Conferencias, 71-72.

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from new drilling.[22]

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[22] Bach y De la Peña, México y Su Petróleo, 16.

During the period of bitter controversy with the United States government, the Mexican Minister of Foreign Affairs issued a note (November 17, 1926) stating that acquired rights could not be prejudiced by retroactive legislation or legisla-

tion confiscatory in effect and that property rights legally acquired would be respected and guaranteed in conformity with the generally recognized principles of international law and equity.[23] The Mexican government, however, expected that con-

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[23] Standard Oil of New Jersey, Present Status, 34.

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crete cases would be presented to it demonstrating violations by it of such rights rather than general protests. The Mexican government also declared that the replacing of the rights acquired under the laws existing between 1884-1917 by confirmatory titles was no less than the issuance of new titles of recognition and did not alter the original rights confirmed.[24]

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[24] Secretaría de Industria, Comercio y Trabajo, Departmento de Petróleo, La Industria del Petróleo en México: Su Aspecto Legal y Su Reglamentación por José Colomo y El Estado Actual de Esa Industria por Gustavo Ortega, 9. Hereafter cited as Secretaría de Industria, Comercio y Trabajo, La Industria del Petróleo. As a matter of fact an official opinion of at least part of the Mexican government in 1919 was that the mining laws had retroactive effect and did attack acquired rights or rights created by law but argued that the only real question was whether the new laws were for public interest; if so, it was within the province of the state to issue such statutes. See Vázquez Schiaffino, Santaella, y Elorduy, Informes sobre la Cuestión Petrolera, 54. José Vasconcelos declared that the sane way to interpret the law was to apply it to new concessions and new investors, leaving the question of retroactivity in a shadowy realm of theory while time worked in Mexico's favor, but Calles foolishly upset the situation and placed Mexico in a position from which she had to withdraw under foreign pressure. See José Vasconcelos, "A Mexican Interpretation of the Oil Controversy," in Foreign Notes, III.

In 1927 the Secretaría de Industria, Comercio y Trabajo issued a Reglamento de Trabajos Petroleros under the authority of the new petroleum law which set up a detailed regulation of oil works of all types from drilling, producing, and transporting to refining and marketing, with permits required for drilling, blasting, pipe lines, pumping stations, storage, refineries, gas plants, and, in general, any work related with the oil industry.[25]

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[25] Secretaría de Industria, Comercio y Trabajo, Reglamento de Trabajos Petroleros: Edición Oficial, 3-4.

The diplomatic dispute with the United States resulted in American rejection of the Mexican position on rights acquired before 1917 and an impasse until negotiations between Calles and Ambassador Morrow resulted in a modification of the Mexican position.[26] The Mexican opinion officially was that

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[26] Charles A. Thomson, "Mexico's Challenge to Foreign Capital," in Foreign Policy Reports, XIII, 135.

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the transitory epoch in which the dominion over coal and petroleum passed to the owner of the soil marked an abnormal period.[27]

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[27] Secretaría de Industria, Comercio, y Trabajo, La Industria, el Comercio y el Trabajo en México Durante la Gestión Administrativa del Señor Gral. Plutarco Elías Calles, I, 342. Hereafter cited as Secretaría de Industria, Comercio, y Trabajo, La Industria, el Comercio, y el Trabajo.

Contrariwise, another authority in the legal field held that the article in the law providing for the granting of concessions to confirm rights received before 1917, when oil exploitation had begun, was unconstitutional, since the mining laws of 1884, 1892, and 1909 conceded such rights unconditionally to owners of the soil. It was confiscatory, in that view, because it did not protect properties on which positive acts had not begun, although the previous laws unconditionally had declared that oil was the exclusive property of the owners of the soil and those laws, constitutional, did not require any obligation of the owner to the government. In that article, according to Salas, the mathematics of the engineers who drafted the law was in open struggle with the principles of justice and the very elementals of constitutional law.[28] President

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[28] M. Salas, (ed.), Juicio Crítico del Proyecto de Ley del Petróleo Formulado por la Comisión Mixta Integrada por los Señores Lic. Manuel de la Peña, Ing. Joaquín Santaella, Senador Fernando Rodarte, y Dip. Miguel Yépez Salorzano, 7. Hereafter cited as Salas, (ed.), Juicio Crítico del Proyecto de Ley del Petróleo.

Calles announced in 1927 a decision to expropriate the oil lands to solve the anomoly but the poverty of the Mexican treasury made such a solution impossible; consequently Article 27 was reinterpreted by the Mexican Supreme Court so that Mexican law in a loose application was preserved but international intervention for the oil companies disappeared.[29]

[29] González Ramírez, El Petróleo Mexicano, 210.

The critical situation vis-a-vis the United States in February, 1926, was made more so when the strong opposition of American oil men to the application of Article 27 was accompanied by an attack on the article by the Archbishop of Mexico; also when a nun from Mexico appeared before the congressional committee in the United States investigating Mexican affairs to testify that she was there on the instructions of United States Ambassador to Mexico Shefield, Mexico promptly concluded that foreign intervention and the Church were linked. The result was a violent attack on the Church by the Mexican government.[30]

[30] The University of Chicago. Norman Wait Harris Memorial Foundation. Third Institute, June 29 to July 16, 1926, mimeograph, 81.

The way to a solution of the immediate problem facing Mexico in regard to the enforcement of Article 27 was opened by a ruling in 1927 of the Supreme Court concerning an amparo suit against articles 14 and 15 of the petroleum law brought by the Mexican Petroleum Company. The court ruled that rights acquired prior to May 1, 1917, for the exploitation of oil could not be limited in time by the confirmatory concessions for land-owners and could not be reduced below the time men-

tioned in the contracts made by lessees.[31] January 10, 1928,

[31] Government of Mexico, The True Facts, 59. It is worth noting that the decision referred to vested rights to exploit the subsoil not to the subsoil itself.

the Mexican government announced an amendment to the petroleum law which distinguished owners and lessees in regard to their rights as follows:[32]

> Article 14.--The following rights shall be confirmed without cost and by means of the issuance of concessions:
> I.--Those attaching to (que se deriven de) lands on which works of petroleum exploitation shall have begun prior to May 1, 1917.
> II.--Those originating from contracts executed prior to May 1, 1917, by the surface owner or by his successors in interest, for express purposes of petroleum exploitation. The confirmation of these rights shall be granted without limitation of time whenever they should run in favor of the surface owner; and for the terms stipulated in the contracts...in the case of rights originating in contracts....

[32] Documents Relating to the Petroleum Law of Mexico of December 26, 1925, with Amendments of January 3, 1928, 26.

The Mexican government had been forced to beat a strategic retreat before the pressure created internally and externally, politically and economically, by the oil companies supported by their respective governments.[33] Even so, the Mexican govern-

[33] Alfonso Teja Zabre, Panorama Histórico de la Revolución Mexicana, 152.

ment did maintain its position that direct ownership of the subsoil was vested in the nation and the doctrine of positive acts was preserved, although made very broad indeed in meaning.[34]

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[34] Dunn, The Diplomatic Protection of Americans in Mexico, 365.

By March, 1928, holders of oil lands were permitted to receive confirmatory concessions without time limit, recognizing acquired rights on lands where positive acts had been committed prior to 1917[35] and removing the requirements for deposits and

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[35] Charles A. Thomson, "Mexico's Challenge to Foreign Capital," in Foreign Policy Reports, XIII, 135. The Supreme Court and the government developed the doctrine of "positive acts" under pressure and expanded it to include the mere intention to exercise rights on the subsoil, a despoiling of the state of its rights. Consequently, although in 1917 scarcely 279 wells had been drilled, confirmatory concessions issued later covered 5,762,999 hectareas. See Sindicato de Trabajadores Petroleros, La Cuestión Petrolera, 48.

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for regular works.[36] That brought Mexican law more nearly into

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[36] Manterola, La Industria del Petróleo en México, 35.

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harmony with the opinion of the United States Supreme Court which had ruled in City of Owenboro versus Cumberland Telephone and Telegraph Company that the granting of licenses for purposes of public utility constituted property rights in perpetuity unless limited in the franchise, such rights not to be cut down

in the absence of some controlling principle of public policy.[37]

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[37] Standard Oil of New Jersey, The Reply to Mexico, 54-55.

Following the Morrow-Calles agreement and the amendments to the petroleum law, large sums of American and European money were invested in Mexico; however, requests for confirmatory concessions were often delayed and 424 requests covering six million acres never were acted upon.[38]

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[38] Standard Oil of New Jersey, Present Status, 35. It was after 1927 that Standard Oil of New Jersey acquired Huasteca. As for concessions, some were still pending in 1938 on lands bought thirty years before and applications covering 2,592,000 acres were unacted upon. See Standard Oil of New Jersey, Fine Art of Squeezing, 7-9.

The American government announced March 27, 1928, that the controversy beginning in 1917 was at a practical conclusion and that further discussions concerning the oil question could be handled by the Mexican executive departments and not through the United States Department of State.[39] Whether or

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[39] Department of State, Papers Relating to the Foreign Relations of the United States 1928, III, 387-388. Hereafter cited as Foreign Relations.

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not the principal consideration in the American policy toward Mexico in regard to the petroleum law of 1925 was the fear that its acceptance might cause other Latin-American countries

to follow the same course,[40] the law had been effectively

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[40] Standard Oil of New Jersey, The Mexican Expropriations in International Law, October, 1938, typescript, 27.

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turned from its original direction.

The enforcement of the amended petroleum law of 1925 continued to be the cause of some complaint from the oil producers of Mexico, or at least the section represented by the Association of Producers of Petroleum in Mexico. In a letter dated April 25, 1929, the secretary of the Association, A. J. Armstrong, listed for members some of the faults still to be found in the Mexican policy toward the oil companies: the Mexican government was making certain requirements in the enforcement of the law which were difficult or impossible to fulfill; it was, through the Department of Industry, Commerce, and Labor, making a careful examination of all documents presented by the companies to prove title, which was not necessary since the companies had complied with all the documentary requirements substantiating confirmatory concessions; it was guilty of unreasonable and unnecessary delay even where applicants had complied with all regulations; it was using a form for ordinary concessions which was not satisfactory since it did not declare clearly the rights acquired; it should accept rentals and other payments as evidence of regular works of exploitation to meet the requirements of the law; it should not include the federal zones in the national oil reserves since

federal zones were excluded from confirmatory concessions.[41]

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[41] Memorandum of Objections to the Petroleum Law and Regulations as Interpreted and Administered to Date. A. J. Armstrong, Secretary of Association of Producers of Petroleum in Mexico, April 25, 1929.

The government, according to major oil companies, even after the companies had accepted the law of 1925 and its provisions for confirmatory concessions, meticulously examined applications for such concessions and the works necessary to hold them with the sole object of declaring the concession void on any pretext in order that the land might be added to the national reserves. In that manner, so ran the plaint, the companies were deprived of rights acquired before 1917 despite the change in the law.[42] Nevertheless, for the first time in

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[42] Huasteca Petroleum Company y Standard Oil Company of California, Expropiación: Un Estudio de los Hechos, Causas, Métodos, y Efectos de la Dominación Política de la Industria en México, 12.

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ten years or more the petroleum law of Mexico was clear and agreed on by all parties concerned. In 1930 the Mexican government enacted a mining law for minerals other than petroleum in which three types of concessions were established: concessions of exploration to last for two years; of exploitation to last for unlimited time; and for plantas de beneficio, also to last for unlimited time.[43] That law was amended in August, 1934,

[43]Secretaría de Industria, Comercio y Trabajo, Ley Minera de los Estados Unidos Mexicanos, 32.

to establish and regulate the national mining reserves with a Comision de Fomento Minero set up to supervise the operation of the law; concessions were to be granted not to first applicants but to those demonstrating the greatest economic and technical resources for exploitation, provided they were Mexican; and of course it included a provision for the payment of a royalty to the government.[44] After 1935 the terms laid down

[44]Palavicini (ed.), México: Historia de su Evolución Constructiva, IV, 410-411.

for new concessions to foreigners were prohibitive so that few were executed;[45] nevertheless in 1937 El Aguila received the

[45]Whitney H. Shepardson and William O. Scroggs, The United States in World Affairs: An Account of American Foreign Relations, 1938, 230. Hereafter cited as Shepardson and Scroggs, United States in World Affairs: 1938.

concession to the Poza Rica oil field after agreeing to invest twenty-five millions in the field and to pay the government a 35% royalty.[46]

[46]Nathaniel and Sylvia Weyl, The Reconquest of Mexico, the Years of Lázaro Cárdenas, 293. Hereafter cited as Weyl, Reconquest of Mexico.

The base for the final solution of the Mexican problem of subsoil wealth and its relationship to the state was laid in 1936. The reasoning upon which this solution was founded was very well expounded by Gilberto Bosques, writing concerning the plan of the National Revolutionary Party for a reinvigoration of the Mexican revolution:[47]

> During the past century while the Indians were being despoiled of all land whether communally or individually owned, a very important tenet of liberal political thought gained force and came to be definitely established. It was the tenet that ownership of all lands and waters is originally vested in the Nation and that it is by virtue of title granted by the State that private property exists.... The State has, in consequence of this right, the inalienable power to take away any manner of private property. It is specifically established that the exercise of this right is imperative when the public good demands it.

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[47] Gilberto Bosques, The National Revolutionary Party of Mexico and the Six-Year Plan, 14.

The new approach was forecast by the enactment of the expropriation law of November, 1936, which was passed after long and heated debate and which broadened the definition of public utility to the utmost, giving the federal executive authority to declare partial or full expropriations to meet the needs of public utility with compensation to be paid in not more than ten years.[48] President Cárdenas announced that the purpose of

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[48] Ibid., 250-255.

the law was to expropriate inactive means of production in order to better the lot of the working class, with the government using its powers to put to work inactive industrial enterprises.[49] A Mexican jurist declared that the purpose of the

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[49] F.J.H., "The Mexican Expropriation Law," in Bulletin of the Pan American Union, LXXI, 286.

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expropriation law of 1936 was to facilitate expropriation of national industries beginning with agriculture, continuing to the extractive industries, and concluding with manufacturing, with the government having the power to solve labor disputes by expropriating the property involved and putting it in the hands of the workers to operate.[50] One leader of a labor union

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[50] Compañía Mexicana de Petróleo "El Águila," S.A., et al., The Mexican Oil Strike of 1937: The Expropriatory Decree, 46.

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wrote that the expropriation law of 1936 was the direct consequence of the resistance of industry to the 1935 law establishing a minimum wage. The minimum wage act provided that wages were to be raised beginning with 1935 "hasta donde permite la resistencia económica de las empresas," which provision was used by industry to shut down certain sources of work to avoid abiding by the law. The result was the law of 1936 which made it possible to keep industries open under the workers, pending state mediation, regardless of the claim of eco-

nomic incapacity on the part of the management.[51] The law in

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[51] Miguel Angel Menéndez, Ideas y Direcciones Políticas, Discursos y Artículos en Ejercicio de Una Representación Popular, 1937-1940, p. 61. Hereafter cited as Angel Menéndez, Ideas y Direcciones Políticas.

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part was brought about by the government's desire to expropriate wells, machinery, and equipment in the Laguna region.[52]

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[52] Thomson, "Mexico's Challenge to Foreign Capital," in Foreign Policy Reports, XIII, 129.

The question of the constitutionality of the new law arose at once and the Mexican Bar Association declared that it was unconstitutional.[53] The Supreme Court of Mexico, on the other

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[53] David D. Leven, Petroleum Encyclopedia "Done in Oil," the Cavalcade of the Petroleum Industry from a Practical, Economic, and Financial Standpoint, 281. Hereafter cited as Leven, Done in Oil.

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hand, ruled that the action of the Governor of Yucatan in decreeing that private property could be occupied temporarily for the use of third parties when indemnification was offered was legal. According to Article 27, in the view of the Supreme Court, property was a social function properly to be regulated by the state in the interest of the community.[54] Others would

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[54] Gilberto Bosques, The National Revolutionary Party of Mexico and the Six-Year Plan, 257-258.

have had the law unconstitutional because it authorized the expropriation of any property without distinction, because it made possible not simply the control of a public utility but that of a class of society, because it provided only for indemnity from the time of expropriation and at the pleasure of the expropriator, and because it empowered the executive to exercise the expropriatory authority rather than the juridiciary.[55] It also was argued that the extension of the expropriatory power of the state to all kinds of property was contrary to the constitution which permitted only expropriation of real property as a kind of reversion of ownership of land to the state.[56] The law was declared to be unconstitutional in its provision for indemnification since legally and economically indemnity determined in form and terms by the expropriator did not meet the concept of indemnity described in the constitution, according to one legal authority.[57] Botella

[55] Eduardo J. Correa, El Balance del Cardenismo, 113.

[56] Standard Oil of New Jersey, The Mexican Expropriations in International Law, October, 1938, typescript, 40.

[57] Botella Asensi, La Expropiación, 50.

Asensi also stated that the administrative procedure set up in the expropriation law which reduced the function of the judiciary to that of settling the value of property when controversy arose violated the constitution in Article 27 where judicial procedure was provided to carry out the article, which function could not be reduced without amending the constitution.[58] The

[58] Ibid., 54-55.

legal experts of the Standard Oil Company of New Jersey also maintained that in Mexican law according to Article 27 expropriation was to be by judicial process, not executive.[59] At

[59] Standard Oil of New Jersey, Present Status, 82.

any rate, the law was enacted and by it was laid the subsequent legal base for expropriation of the oil properties.[60]

[60] In June, 1941, a new law regulating petroleum exploitation under Article 27 was enacted in which the nation was given right to carry out governmental works of exploration and exploitation along with private institutions created by law and private persons under contracts. Contracts of exploration and exploitation were to last for thirty years. The law regulating this organic law was also passed in 1941 and provided that in cases of expropriations to carry out oil works, the property should be described in a dictamen by the appropriate Secretaria with the motives for expropriation set forth. Compensation was to be set by three experts designated by the owner, contractor, and government with the understanding that rejection of the judgement by any party to the affair would place him in rebeldía. See Secretaría de la Economía Nacional, Dirección General de Minas y Petróleo, Ley Reglamentaria del Artículo 27 Constitucional en el Ramo del Petróleo y su Reglamento.

CHAPTER V

INTERNATIONAL CLAIMS AND MEXICAN POLICY

The complex question of claims plagued Mexican-American relations from the early years of the nineteenth century to the middle of the twentieth, the nature of the claims changing during the course of the century but the issue involved remaining almost the same and centering about the problem of compensation for expropriated property or property rights damaged in some other fashion. The first Mexican-American Claims Commission was set up in 1839, consisting of two representatives from each of the governments with the King of Prussia or his agent to be arbiter in disputed cases; of the claims submitted to that commission fifty-three were approved for $1,486,745 in favor of the United States.[1] The claims of 1839 were only partially paid by Mexico and it was this unpaid debt which was the subject of the United States proposition to Mexico to cancel the sum due if Mexico would surrender Texas to the United States.[2] In the controversy over payment a second claims agreement was negotiated but was rejected by the

[1] Howland (ed.), Survey of American Foreign Relations, 261.

[2] Ibid.

United States Senate in 1843.[3]

[3] Ibid.

The thorny problem of claims made against Mexico by aliens supported by their governments was certainly related to the developing attitude of the Mexican government toward foreigners, alien-owned property, and diplomatic protection from foreign governments for such property. Santa Anna gave on March 14, 1842, the first public expression in Mexico to the view thereafter consistently upheld by the Mexican government that the right of diplomatic protection was a personal right which could be waived by the individual foreigner without consent of his native government. What Santa Anna decreed was that foreigners who acquired real property in Mexico became in regard to their property entirely subject to the laws in effect or to be effected within Mexico concerning transference, use, possession, and taxation without the right to claim protection for rights violated from their alien governments. Such protests were to be determined in the regular course of Mexican law without there being any recourse to intervention on behalf of the alien by a foreign government.[4]

[4] Dunn, The Diplomatic Protection of Americans in Mexico, 171. This decree was repeated by Comonfort in 1856. Ibid.

The Mexican government included provisions of this nature in the early concessions granted to foreign companies for railway construction. In 1849 the concession granted for the construction of a rail line from Vera Cruz to the Pacific contained a clause that foreigners connected with the company had to renounce their rights to diplomatic protection. Also a concession granted in 1854 for a rail line from Presidio del Norte to Guaymas provided that foreign shareholders or employees of the company would have no other rights or means of establishing their rights than Mexican law granted to Mexicans.[5] To

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[5] Howland (ed.), Survey of American Foreign Relations, 284.

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violate the clauses by seeking foreign protection meant loss of the concession privileges.[6]

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[6] Ibid.

Interestingly enough the United States and Mexico included in the Treaty of Guadalupe Hidalgo a provision (Article 11) that the American government would pay the Mexican government indemnity for any raids by Indians across the boundary of the United States, after the cession of territory--raids which subsequently became so damaging that under the terms of the treaty the Mexican government demanded reparations.[7] The

[7]Esquivel Obregón, "Protección Diplomática de los Ciudadanos en el Extranjero," in Jus: Revista de Derecho y Ciencias Sociales, XIII, 86.

United States denied any obligation to pay and the plenipotentiaries of the United States in Mexico, Webster and Letcher, were instructed to renounce Article 11 of the treaty since the American Secretary of State indicated that the obligations assumed under the article were taking on alarming proportions. Subsequently the Treaty of 1853 renounced not only Article 11 of the Treaty of Guadalupe Hidalgo but also Article 33 of the Treaty of 1831, which was similar in its provisions, and the United States offered Mexico two million pesos as indemnity.[8]

[8]Ibid., 86-88.

The Mexican policy toward damage claims and diplomatic protection continued to develop under Juárez when a concession granted to an English group for the completion of the railway from Vera Cruz to Mexico City provided that neither the company, the shareholders, nor employees could claim foreign rights even in cases of alleged denial of justice, a provision which was also included in the contracts made with the Mexican National Railway during the time of Porfirio Díaz.[9]

[9]Howland (ed.), Survey of American Foreign Relations, 285.

As for claims between the United States and Mexico, they were adjudicated once again by the agreement of 1868 which set up a commission of three consisting of a representative from each nation and an umpire.[10] This commission in its work of

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[10] Ibid., 262.

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evaluating claims did not seem to apply consistently any established principles of law or anything else in its judgments concerning denial of justice and the exhaustion of local remedies.[11] The Mixed Commission did reject claims for damages

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[11] Dunn, The Diplomatic Protection of Americans in Mexico, 228.

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presented by citizens of either government when such damages were requested for acts executed by armed forces; nor were claims growing out of acts by the Empire of Maximillian or the American Confederacy allowed.[12] Nevertheless it settled

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[12] Mariano Salas, Defensa de México, 50.

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186 American claims, awarding $4,125,622 or 0.8% of claims made by Americans, and 167 Mexican claims were settled for $150,498 or 0.2% of the amount demanded. The percentage of the United States was subsequently reduced to 0.6% when two of

its awards for $1,152,046 were found fradulent and the money was refunded to Mexico.[13]

[13] Howland (ed.), Survey of American Foreign Relations, 262.

It was also in 1868 that Secretary of State Seward of the United States was informing the government of Prussia, which had demanded reparations for some of its nationals injured in their property during the American Civil War, that a government was not responsible for damages committed by insurgents provided it had adopted means to suppress the rebellion.[14] Inter-

[14] Dunn, The Diplomatic Protection of Americans in Mexico, 160.

national law, said Secretary Seward, did not hold any government responsible for acts of rebels committed in violation of authority where the government itself was not guilty of breach of faith or of negligence; in such instances, law-abiding neutrals had the same rights to claim indemnity against the government as the citizens of the government but no greater rights.[15]

[15] Ibid.

Other states also have made declarations denying respon-

sibility for damages in cases involving civil disturbance. Venezuela in a law of February 14, 1873, declared that in no case would it indemnify damage or expropriations executed by legitimate authorities acting in their public character.[16]

[16] Salas, Defensa de México, 57.

Treaties existed between the Mexican government and Italy, Belgium, Germany, Holland, Norway, the Dominican Republic, Ecuador, and Nicaragua which provided that no one should have the right to claim damages for acts consumated in civil war or insurrectionary acts.[17] There were no treaties of this

[17] Ibid., 54-57.

type with England, Austria, Spain, Russia, China, or Japan but the principle of reciprocity would have ruled out their being indemnified by Mexico since they had not practiced the paying of indemnities to nationals of other nations in such cases.[18] Nor did France pay for the losses caused to foreign-

[18] Ibid., 57.

ers by her revolutions.[19] This conception of national respon-

[19] Ibid., 53.

sibility was included in the Pan-American Treaty of 1902 which stated that governments were not responsible for damages suffered by foreigners because of acts of factions or individuals or of fortuitous cause whether or not they were wars, civil or national, except in cases where civil authority was remiss in its duty.[20]

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[20] Ibid., 13.

In the Jay Treaty of 1794 between the United States and Great Britain it was provided that British subjects with property rights in the United States should possess the property on equal terms with citizens of the United States. In connection with the readjustment of the New York-New Hampshire boundary a British subject protested at damage to his property rights and was told by the Attorney General of the United States that no obligation existed on the part of the United States to compensate the loss since the damage was the result of general circumstances applying to citizens of the United States as well as to foreigners.[21]

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[21] Obregón, México y los Estados Unidos ante el Derecho Internacional, 138.

The outbreak of revolution in Mexico in 1910 brought about the alteration in practice in Mexico which made possible the

tremendous quantity of claims which burdened the country thereafter, unsettled, for at least a generation. As the Madero revolt seemed to be succeeding, Díaz on May 21, 1911, agreed with Madero in the Juárez Pact that damage resulting from the civil war should be compensated by the government, by which action rebellion against the state was converted into a lucrative business.[22] After Díaz fled to Europe into exile, the

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[22] Salas, Defensa de México, 7.

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interim president, León de la Barra, presented the pact to the congress for approval, as if it were an agreement between two nations. The two houses of congress voted the approval and appropriated on May 31, 1911, the sum of six million pesos to cover indemnity.[23] Thus originated the Mexican policy on in-

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[23] Ibid., 8-10.

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demnities for damage resulting from insurrections, a policy that was to have dangerous consequences for Mexico in the future.

This untoward generosity on the part of Mexico was extended to foreigners directly by the Carranza declaration of June 11, 1915, which, as previously noted, provided in part that:[24]

> The constitutionalist government shall afford to foreigners residing in Mexico all the guaranties to which they

> are entitled, according to our laws, and shall amply protect their lives, their freedom, and the enjoyment of their rights of property, allowing them indemnities for the damages which the revolution may have caused to them, in so far as such indemnities may be just....

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[24] Affairs in Mexico, 32-33.

The process of accumulating obligations was continued by Carranza under the extraordinary fiscal authority granted him by the Mexican congress on May 8, 1917, under which he issued the decree of November 24, 1917. This authorized the payment of damages and of exactions levied by the agents of the state as well as those assessed by the rebels. To determine the amounts due the respective claimants from foreign countries Carranza ordered a commission set up to study the damage suffered by persons and property as a consequence of the revolution from November 20, 1910, to August 30, 1919. The order provided also that an arbitral commission, consisting of a representative of the country concerned, one representing the government of Mexico, and a third member named by those two or by the president of Mexico, should settle disputed cases.[25]

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[25] Salas, Defensa de México, 41-42.

In effect, the decree acted on the assumption that a matter subject to arbitration could be decided by unilateral order,[26]

[26] Ibid., 42.

although it remained true that the determination of responsibility was due to Mexican generosity rather than to obligation. As Carranza declared, the Mexican government had established a form for indemnifying the damage caused during the revolution which demonstrated a spirit more liberal than other governments in analagous situations had shown.[27] The establishment

[27] Informe Rendido al H. Congreso de la Unión, por el Presidente Constitucional de la República, C. Venustiano Carranza, al Renovarse el Periodo Ordinario de Sesiones el 1º de Septiembre de 1919 y Respuesta del C. Presidente de la Cámara de Diputados, 37. Hereafter cited as Informe de V. Carranza a la Cámara de Diputados 1919.

of claims went on apace subsequently, claims growing not only out of revolutionary damage but also out of revolutionary reforms.

Revolutionary reforms, when they aimed at implanting innovations prejudicing the interests of some United States citizens in Mexico, frequently provoked insinuations from the United States which were more or less vehement, the word confiscation being used by the United States in what appeared to Mexico to be an effort to affect the freedom of the Mexican government to legislate.[28] One American group maintained that

[28] Ibid., 20-21. Carranza's Secretario de Hacienda, Señor Cabrera, informed the American consul in Guadalajara, Will B. Davis--who was present at a businessman's banquet in Guadalajara and who asked Cabrera after a discussion of the Alien Land Law of 1916 if he were familiar with the alien land laws of Texas--that the case of Mexico was not analagous to that of Texas for Texas could pass laws as it saw fit without foreign interference whereas in Mexico the Carranza government was forever hindered and embarrassed by protests and objections from Washington. See Will B. Davis, Experiences and Observations of an American Consular Officer during the Recent Mexican Revolutions, 217.

the de jure recognition granted to the Carranza government in 1917 had been given after American protest against some articles of the new constitution and assurances from the Mexican Minister of Foreign Affairs that such articles would not be enforced in regard to American interests.[29] If so, Pancho Villa's

[29] The Status of Americans in Mexico: Bulletins of the American Association of Mexico, 18.

comment, that Carranza's habit of wearing dark glasses was not because of any ailment of his eyes but to conceal his thoughts, might well be considered to have been more than a canard.[30]

[30] Blasco Ibáñez, Artículos sobre México, 2.

At any rate Carranza's ambassador to the United States, Bonillas, accepted an American proposal in August, 1919, that Mexico consent to the obligation to pay for pecuniary and per-

sonal losses to American citizens growing out of the revolution and also to pay foreigners reclamations for losses they suffered as a result of damage to Mexican firms in which they were stockholders, with claims to be judged by a mixed international commission whose decisions would be irrevocable.[31] Special

[31] Enríquez, Problemas Internacionales, 13.

commissions for each case were authorized by the agreement as were permanent arbitration commissions, conditions which would have submitted Mexico to conditions similar to those imposed on Asia and Africa by Europe, according to Enríquez.[32]

[32] Ibid.

Although Bonillas was Carranza's choice as his successor, the overthrow of Carranza in 1920 was not prevented by United States support, and once again the question of recognition of a new government in Mexico was presented. The heavy burdens in the field of claims and their adjudication were left to De la Huerta and to Obregón,[33] while the opportunity to press

[33] Ibid., 14.

Mexico was in the hands of the United States since no Mexican

government could survive without American recognition, or at least in the face of American opposition.[34]

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[34] The Status of Americans in Mexico: Bulletins of the American Association of Mexico, 28-29.

The problem of securing American recognition unquestionably was primary for Obregón and his supporters after the revolt of 1920. United States Secretary of State Colby received a communication from Roberto Pesqueira of the Mexican government on October 16, 1920, which declared that Mexico had not confiscated nor did it contemplate confiscating any legitimately held property; he stated positively that Mexico would assume all her obligations as an honorable state.[35] A cordial exchange

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[35] "The United States and Mexico. I. Notes and Official Statements Regarding the Recognition of Mexico; II. Agreement between the Mexican Government and the International Committee of Bankers on Mexico, Signed June 16, 1922; III. Decision of the Supreme Court of Mexico in the Amparo Proceedings Instituted by the Texas Company of Mexico, S.A., and Statement Made by the Department of State of the United States, August 10, 1922, Regarding the Effect of the Decision," in International Conciliation, No. 187, p. 412. Hereinafter cited as "The United States and Mexico," in International Conciliation, No. 187. According to Blasco Ibáñez, however, confiscation was the fearful arm of the Mexican revolution, wreaked upon enemies of the revolution but at times also upon ordinary private holders. See Artículos sobre México, 69.

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followed which ignored the fact that a change in administration in the United States had also been made certain, the elections

of November, 1920, having resulted in the election of a Republican government. Secretary Colby notified that Mexican government that the United States had set up no conditions for the recognition of the Mexican government. However, in a letter to Pesqueira on November 25, 1920, Colby declared that, although the United States had not required the declaration given by Mexico of her intention to discharge her obligations according to international law, the statement concerning Article 27 was welcome. Such interest in Mexico's intentions, however, was not to be interpreted as a desire to interfere in Mexico's affairs, since her effort to protect her resources against improvident treatment in reality aroused much sympathy, and it was felt that Mexico's freedom to act in that respect was not limited by the recognition legally due vested interests.[36]

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[36] "The United States and Mexico," in International Conciliation, No. 187, pp. 415-416.

A somewhat different attitude toward Mexico was evident in the recommendations of the Senate committee investigating Mexican affairs, under the chairmanship of Albert B. Fall, which presented its conclusions also in 1920. The committee advised the American government to extend no recognition to a Mexican government or even to deal with one which would not agree to exempt American missionaries, teachers, ministers, and American schools and periodicals from the effects of Arti-

cle 130 of the Constitution of 1917;[37] which would not promise

[37] Article 130 provided that only Mexicans by birth could be ministers in Mexico and, among other things, forbade religious publications to comment on political affairs.

that Article 3[38] should not apply to any American teaching or

[38] Article 3 provided that all primary instruction should be secular and forbade religious creeds to establish or direct such schools.

conducting primary schools; which would not suspend the enforcement of any part of Article 27 where American citizens were affected except when the limitations resulting from Article 27 were written into the deed, lease, or title involved; which would not agree that Article 33[39] should not apply to

[39] Article 33 gave the executive power to expel any alien from Mexico without judicial process.

Americans; and which did not consent to the establishment of a claims committee immediately and the setting up of a border commission to settle the boundary disputes between Texas and Mexico.[40] The committee concluded its recommendations by sta-

[40] Investigation of Mexican Affairs, II, 3369-3371.

ting that these terms should be insisted upon as a duty of the Mexican government and if that government would not accept the duty nor remedy the conditions making them necessary, then the government of the United States should apply the words of President McKinley to Mexico and, in the cause of humanity, send a police force to Mexico to put a stop to barbarities there.[41]

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[41] Ibid., 3372-3373.

Under these circumstances the recognition extended to Obregón by the governor of Texas, who was present at the inaugural of Obregón in 1920 and who declared that Texas if not the United States had recognized the government of Mexico,[42]

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[42] The Status of Americans in Mexico: Bulletins of the American Association of Mexico, 70.

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was not likely to have been too reassuring to Obregón. Nor was there much comfort to Obregón, probably, in the action of the American Federation of Labor which resolved in 1920 that propaganda for intervention in Mexico was a threat to peaceful relations between the United States and Latin America and declared its opposition to intervention.[43]

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[43] W. J. Hammond, "Mexican Labor and World Affairs," in S. D. Meyers (ed.), Mexico and the United States, Proceedings of the Fifth Annual Conference Institute of Public Affairs Auspices Carnegie Endowment for International Peace, 1938, 96.

The United States was pursuing a policy of its own, as the new secretary of State, Hughes, made clear in a statement of May 27, 1921. In that statement Hughes declared that the government of the United States would withhold recognition from the Mexican government under Obregón until there had been signed between the two countries a treaty of amity and commerce, the proposed draft of which included these provisions:[44]

> Property rights of whatever nature heretofore or hereafter acquired by citizens of either country within the territories of the other, in accordance with the laws thereof, shall under no circumstances be subjected to confiscation, under constitutional provisions, legislation, or executive decrees or otherwise. The right of expropriation may be resorted to only on proper grounds of public purpose and it shall not be exercised without due process of law, nor without the prompt payment of just compensation.
>
> ...the United Mexican States declare that neither the Mexican Constitution nor the Decree of January 6, 1915, to which the said Constitution refers, is retroactive in its operation; that neither the said Constitution nor the said decree nor any executive decree of the administrative or military order, nor any federal or state law ... have any effect to cancel any right, title, or interest in any property....

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[44] Foreign Relations 1921, II, 398-9.

It was apparent that the American government was in no hurry to establish formal diplomatic relations with any Mexican government and certainly not one pledged to revolutionary reforms and the principle that no Mexican government could revoke the property of the nation in the natural resources of the

country, as the government of Obregón was pledged.[45] Evidently

[45] Government of Mexico, The True Facts, 40.

the American government was working on the assumption that a joke attributed to Obregón and repeated by him frequently (which had him declaring that since everyone in Mexico was a thief, more or less, the Mexican people loved him because with only one arm he could steal only half as much as those with two)[46] was more than merely a quip. The prospect that the

[46] Ibáñez, Artículos sobre México, 38.

fall of the Obregón government might produce chaos in Mexico seemingly did not frighten the American government any more than it upset the American Association which announced that it preferred a temporary state of chaos to the continuation of the conditions in Mexico under Obregón.[47]

[47] The Status of American in Mexico: Bulletins of the American Association of Mexico, 24-25.

Yet agrarian reform (which meant expropriation of property) was essential to the survival of any Mexican government in Mexico. As a member of the constituent congress had declared, the constitution in Article 27 changed the right of expropri-

ation from one dependent on previous indemnification to one in which the state determined the time and terms under which payment for expropriations might be made in order that the agrarian reform could be carried out.[48] As Obregón's secretary of For-

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[48] Félix F. Palavicini, Historia de la Constitución de 1917: Génesis, Integración del Congreso, Debates Completos, Texto Íntegro Original y Reformas Vigentes, 611.

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eign Affairs, Pani, admitted in a communication to the commission meeting at Bucareli in May, 1923, the government of Obregón had succeeded in quelling rebellion, not so much by force as by the quick application of agrarian reform. This reform the government of Mexico recognized had been hasty, not promptly indemnified, imperfect in administration, and even at times illegal in execution due to excess enthusiasm on the part of agraristas and intrigues on the part of political agitators but it nevertheless was more humane and economic than civil war.[49]

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[49] Department of State, Proceedings of the United States-Mexican Commission Convened in Mexico City, May 14, 1923, p. 28. The agrarian reform, based on the expropriatory power of the state, was not without its critics within Mexico. A Jalisco newspaper, in the heart of a vital mining area of Mexico, fulminated that the agrarian policy was raising the price of cereals, cattle, and forcing people to leave the farms, depositing their income in banks in the United States at a time when Mexico desperately needed capital. The newspaper argued that it served no purpose to divide land among Indians who, for want of capital, could not develop or keep it unless institutions of rural credit were set up to furnish capital

for small proprietors. Quoted in Marco Marcelo, Memorandum on the Relations of the United States with Mexico from the Mexican Viewpoint: 1910-1924, typescript, 46. Yet in the Committee of 1924 the Mexican representatives rejected entirely a proposal to alter the agrarian policy, declaring that to tamper with the agrarian laws would be worse than to try to alter Article 27. See Minutes of the Committee of 1924, p. 70.

The United States was as firmly set against the method by which the Mexican government proposed to inaugurate its agrarian revolution. Secretary of State Hughes declared in a speech on October 30, 1922, that the United States had no desire to interfere in the internal affairs of Mexico and that Mexico had to be the judge of its domestic policies but that the United States insisted that there be no resort to confiscation or repudiation; the form of protection was not a primary concern of the American government but the substance was demanded.[50]

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[50] "The United States and Mexico," in International Conciliation, No. 187, p. 433.

Obregón rejected the American demand for ratification of the proposed treaty of amity and commerce as a condition for recognition of his government, declaring that its effect would be to grant unjustified advantages to Americans, even over Mexicans, which inevitably would have eventually to be extended to other foreigners.[51] He pointed out that Mexico was a state

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[51] Informes Rendidos por el C. Gral. Álvaro Obregón Presidente Constitucional de los Estados Unidos Mexicanos ante el

H. Congreso de la Unión Durante el Período de 1921 a 1924, y Contestaciones de las CC. Presidentes del Citado Congreso en el Mismo Período, 29. Hereafter cited as Informes por Obregón.

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whose sovereignty had not been questioned in a hundred years and that its governments had a right to be recognized by other governments in accord with established use. As for foreigners and their interests in Mexico, Obregón declared, their problems were primarily in connection with the service on the foreign debt, the payment of damages caused by the revolution, and the non-retroactive interpretation of Article 27 of the constitution, all of which he felt could be resolved by voluntary action on the part of the government of Mexico.[52]

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[52] Ibid., 30-31.

During 1920-1921 the Obregón government resumed the practice of issuing temporary drilling permits for oil wells which would be effective until the organic legislation for Article 27 should be enacted.[53] This effort to revive exploratory

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[53] Government of Mexico, The True Facts, 41.

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work in the oil industry was accompanied by a new tax decree on June 7, 1921, which levied an export tax on petroleum. This action provoked a bitter attack on the Mexican government by the oil interests of the United States, although the Dutch-

Shell group did not protest the tax and in its newspaper, the Financial News, even defended the rate imposed by Obregón.[54]

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[54] García Trelles, El Imperialismo del Petróleo y la Paz Mundial, 245.

Since oil formed one of the main sources of income for the Mexican government, the paying of obligations acquired by Mexico could be met only by large-scale production of oil or by international loans.[55] Yet the one was interfered with by

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[55] Obregón rather bitterly reported to the Mexican congress in 1924 that a commission of international bankers had refused financial aid to Mexico after consulting the Association of American Oil Producers in Mexico which had informed the bankers that conditions were such that prospects for the prosperous development of the industry were unfavorable. Consequently Mexico had been forced to suspend payments on her debt again. See Informes por Obregón, 46-47.

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the companies which refused to expand production under the existing legal situation and the other by the fact that the Mexican government was not recognized by the governments of the financial powers of the world. As a United States senator remarked in a speech to the Senate, July 19, 1922:[56]

> Mr. President, I am forced to conclude ... that our refusal to recognize the constitutional, orderly, and friendly Mexican government except on terms that seem a clear violation of Mexican sovereignty, is injurious to the best commercial interest of the United States as well as of Mexico, even though it may be advantageous to certain corporations and individuals of this and other countries.... Much of the disturbance in that unhappy country was the

> inevitable result of our meddling.... Certain great financial and industrial interests in the United States seem to have fomented past disorders within the boundaries of Mexico....

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[56] Our Duty to Mexico. Recognition of Mexican Government. Why Is Mexico not Recognized by the United States? Speech of Senator E. F. Ladd of North Dakota in the Senate of the United States, July 19, 1922, p. 4. Hereafter cited as Our Duty to Mexico. Speech of Senator Ladd.

The Mexican law of nationalization was the crux of the situation, but it had not established a principle new to the world, for it had long existed in France; it did, however, involve large deposits of petroleum which at all costs had to be controlled.[57] The struggle with the United States and England

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[57] J. Filhol et Charles Bihoreau, Le Pétrole, Son Industrie, Son Commerce, Son Rôle dans la Politique des Peuples, 149.

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lasted several years, but in the end Mexico, touched in its finances and national life, was obliged to admit defeat and to modify certain parts of its law.[58] By questioning the abso-

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[58] Ibid., 149.

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lute right of private property in her reforms under the revolution, Mexico found herself in conflict with many of the tenets of international law which were designed to uphold that right and was forced to revise her foreign policy as a result.[59]

[59] Ramón Beteta, "Mexico's Foreign Relations," in The Annals of the American Academy of Political and Social Science, CCVIII, 172.

Since there was no treaty of amity, commerce, and navigation between the United States and Mexico and because there had been none since November 30, 1882, the obligations of Mexico to the United States did not derive from treaty rights but solely from the municipal law of Mexico and from international law,[60] the latter not being universally agreed on in all de-

[60] The Legal Aspects of Our Relations with Mexico. Address by Charles Beecher Warren of Michigan at the Forty-eighth Annual Meeting of the American Bar Association Held at Detroit, Michigan, September 2nd, 3rd, and 4th, 1925, p. 3.

tails. The Mexican government began the retreat on municipal law in 1921 and was routed on the question of international law in 1923.

The withdrawal in regard to municipal law was brought about by the decision of the Mexican Supreme Court in the amparo case of the Texas Company on August 30, 1921. The Texas Company decision arose from a request by the Texas Company of Mexico to the Supreme Court that it be sheltered from retroactive application of the Carranza decrees. The judgment of the court was that Article 27 was not retroactive to companies which had executed prior to 1917 some act designed to make ef-

fective their rights to the subsoil.[61] The court, in a remark-

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[61] Government of Mexico, The True Facts, 43.

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able display of judicial logicality, ruled:[62]

> In article 14 of the Constitution in force, the first mandate is: "No law shall be given retroactive effect to the prejudice of any person whatsoever."
>
> This Constitutional precept does not concern the legislator; it is addressed to the judges, to the tribunals, and generally to the authorities whose business is the application of the laws or their execution....
>
> Retroactive laws are made either by the ordinary legislator or by the Constitutional Congress when the precepts of the political code are framed. In the first case, a retroactive effect cannot be given to the prejudice of any one, this being estopped by article 14 of the present Constitution.... In the second case, they must be applied retroactively ... because the precepts which coexist in one Constitution have equal obligatory force. It is necessary to try to harmonize them ... and if some are at variance with others, it is necessary to consider those which are singular or special as exceptions to those which establish principles....
>
> For a new law to have retroactive effect, two concurrent circumstances must be present: that it apply as to time past and that it damage rights acquired under the protection of other former laws.... The latter circumstance, above all, is essential....
>
> We must ascertain whether paragraph 4 of article 27 of the Constitution in force, which nationalizes ... petroleum ... is or is not retroactive ... if it is retroactive, there must be also applied retroactively the decrees complained of that have this article as a basis, notwithstanding article 14 of the Constitution....
>
> Paragraph 4 of article 27 of the present Constitution cannot be deemed retroactive, either in letter or in spirit, inasmuch as it does not damage acquired rights.

[62] Foreign Relations 1921, Vol. II, pp. 464-472.

The court's ruling was that mining law before 1917 granted the owner of the land the right to explore and exploit it for petroleum, which right could be transferred by the landowner to successors in title, that the powers granted to the landowner constituted positive acts which could be acquired by third parties, and that once such powers were held to exploit and explore they could not be granted by the state to others.[63]

[63] Government of Mexico, The True Facts, 46.

The implication that such rights became vested only when some positive act had been performed to exercise the right was clear, as was the ruling that owners of lands not marked by positive acts merely held preferential positions over third parties in the granting of concessions by the state.[64]

[64] Thomson, "Mexico's Challenge to Foreign Capital," in Foreign Policy Reports, XIII, 134.

To the oil companies this decision of the Mexican Supreme Court meant the modification of Paragraph 4 of Article 27, as a similar ruling by the United States Supreme Court would have done, but this was erroneous for the Mexican Supreme Court has

never been limited by its own juriprudence; it has been obligated to respect its previous judgments but has varied them freely, each case standing alone.[65] Nevertheless the oil companies

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[65] González Ramírez, El Petróleo Mexicano, 132.

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wanted to do business in Mexico and by 1922 they were negotiating privately with the government of Obregón, thereby helping to create a more favorable atmosphere for the acceptance of the Obregón government by the United States.[66] Before re-

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[66] Howland (ed), Survey of American Foreign Relations, 79-80. Edward L. Doheny, for example, testified to the Walsh Committee investigating the Teapot Dome Scandal that he had lent the Obregón government about five million dollars. See John Ise, The United States Oil Policy, 382.

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cognition was likely, however, the Mexican government had other difficulties to adjust with the United States. The problem of unsettled claims for lands expropriated in the agrarian reform and for revolutionary damage, the question of payment on the foreign-held debt of Mexico, and the factor of a power-relationship vis-a-vis the United States in the Caribbean yet faced the Obregón government.

CHAPTER VI

AGRARIAN CLAIMS: CLIMAX AND SETTLEMENT

After the Texas Company case ruling of August, 1921, United States Secretary of State Hughes suggested that effective action in the settlement of the land question in Mexico might be a satisfactory substitute for the approval of the treaty of amity and commerce, which Mexico had rejected, as a quid pro quo for American recognition of the Obregón government.[1]

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[1] Howland (ed.), Survey of American Foreign Relations, 80.

Obregón in his annual message to the Mexican congress in 1922 informed the body that he was happy to report the possibility of substituting for the proposed treaty as a condition for recognition the spontaneously declared position of the United States that it would be willing to accept the equivalent in assurances concerning legally acquired rights in Mexico.[2]

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[2] Informes por Obregón, 44. It is of interest to note that the Mexican congress in its reply to Obregón's report congratulated him on his management of the country and the achievement of internal equilibrium at a time when Russia, Germany, Italy, and even the United States were being torn by internal strife as governments either tried to stem the socialistic tide or were rocked by it. Mexico in contrast, declared the congress, was governed by an executive who understood the historical and social moment in which the country lived. Ibid., 114. A contrary Mexican view was that Obregón had promised to set up a bolshevik government in return for support of the radical labor leaders and the one percent of the population in the worker element. See Marco Marcelo, Memorandum on the Relations of

the United States with Mexico from the Mexican Viewpoint: 1910-1925, typescript, 47.

Agreement was reached that a conference should be held by representatives of the United States and Mexico to try to work out a mutually satisfactory settlement of the legal rights in question. President Harding on May 2, 1923, named two American commissioners to meet with an equal number of Mexican commissioners in Bucareli Street in Mexico City; the four commissioners conferred from May 14, 1923, to August 15, 1923.[3]

[3] Claims of American Nationals against Mexico. Hearings before a Subcommittee of the Committee on Foreign Relations United States Senate June 30, July 1, 2, 6, 10, and 14, 1942 (77 Congress, 2 session United States Senate, serial no. 2528), p. 183. Hereafter cited as Claims of American Nationals against Mexico.

The American representatives were Charles Beecher Warren and John Barton Payne; the Mexican commissioners were Ramón Ross and Fernando González Roa.[4] The first public utterance

[4] Department of State, Proceedings of the United States-Mexican Commission Convened in Mexico City, May 14, 1923, p. 3.

of the American commissioners was made by Warren at a banquet in Mexico City at which he declared that the United States insisted that Mexico live according to law.[5] Private meetings

[5] W. B. J. Osbaldeston Mitford, Dawn Breaks in Mexico, 85. Mitford was honorary attache to the British ambassador to Mexico in 1925.

preceded the convening of the conference itself in which Obregon and De la Huerta of the Secretaría de Hacienda met with Warren and Payne; at the preliminary meetings Obregon, according to De la Huerta, promised that no formal treaty would result from the meetings which were to retain their character of informality, with the Americans being treated as persons seeking information or as reporters.[6]

[6] Miguel Alessio Robles, Historia Política de la Revolución, 348.

When the conference opened Warren made a statement of the American position:[7]

> The Government of the United States, nor and the people of the United States, seek no special privileges in Mexico, no rights which it and they are not willing to share with others. We have no intention or desire of interfering with the sovereignty of Mexico. We are convinced, however, that certain principles are essential as the basis of economic cooperation between nations.... We are certain that there must be a belief on both sides of the border that business can be conducted with safety and security.

[7] Department of State, Proceedings of the United States-Mexican Commission Convened in Mexico City, May 14, 1923, p. 3.

During the conference the most discussed question was that centering about the nature of property rights of foreigners within Mexico. The Mexican commissioners declared that possession of a thing could not exist except by some act showing an intention to possess and that the state's power to legislate on a right granted was not waived except in cases where a contract was made and consideration received; therefore the Mexican policy of expropriation and nationalization did not violate international law because the power to determine the scope of property rights and possession was within the power of the state.[8]

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[8] Government of Mexico, The True Facts, 50. It was perhaps during this part of the conference that, according to Alessio Robles in his Historia Política de la Revolución, Ramón Ross nearly broke up the conference. Apparently dozing, Senor Ross suddenly heard the word "Panama" and roused up vigorously to declare that Mexico could not be compared to Panama and that all gringos were _____. Insulted, the American conferees abandoned the salon and declared they were returning to Washington. Intervention from Obregón was necessary to salvage the conference which, however, was saved.

Certainly international law agreed that the will of the territorial sovereign was supreme within the national domain and that a state enjoyed an exclusive right to regulate the ownership of property of every kind within its territory, although this principle would not be involved directly in every discussion of the limitations of the territorial sovereign in the area of confiscatory or expropriatory acts.[9] For example,

[9] Charles Cheney Hyde, International Law, Chiefly as Interpreted and Applied by the United States, I, 650. Hereafter cited as Hyde, International Law.

international law had not prohibited a state from forbidding aliens the right to inherit or to hold immovable property within the realm, and in 1897 and again in 1905 the United States congress had enacted laws which prevented aliens who had not declared their intention to become citizens from acquiring title to land in any of the United States territories or the District of Columbia; exempt from the terms of the law were citizens of countries whose right to hold property was guaranteed by treaty as was land acquired before March 3, 1887, and still owned on March 2, 1897.[10] Such laws were justified on

[10] Ibid., I, 654.

the grounds that ownership of large portions of the landed area of the United States by aliens was detrimental to the welfare of the nation.[11]

[11] Ibid., I, 655. The Mexican government was so alarmed in 1943 at the volume of sales of farm lands to foreigners or to persons with foreign backing that it forbade such sales. The press in Mexico was requesting at the same time that sales of immovable goods be prohibited to foreigners. See Willy Feuerlein y Elizabeth Hanna, Dólares en la America Latina, 176.

Insofar as the law had permitted the ownership of property of any kind by the alien, the sovereign had committed itself to make reasonable efforts to protect the property; this principle the United States had incorporated in numerous treaties which provided that the nationals of the United States in foreign countries and aliens within the United States should enjoy, on submitting to conditions imposed upon the nationals of the state, constant protection and security for their persons and property to the extent provided by international law.[12]

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[12] Ibid., I, 656. See also Charles G. Fenwick, International Law.

That fact generally had been taken to signify that property should not be taken without due process of law nor without just compensation.[13] Where concessions had been issued by a

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[13] Ibid.

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sovereign power, it defined the conditions upon which the concession might be operated, and in revoking such concessions the sovereign bound itself by the terms of the agreement, the cancellation therefore best being by means of the judicial process to avoid accusations of injustice.[14] The contention

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[14] Ibid., I, 689-690.

that when judicial opinion had imposed payment of full compensation in time of war for the satisfaction of owners of expropriated property, so in time of peace alien-owned property could not be taken on lesser terms had frequent support in international law.[15]

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[15] Hyde, International Law, I, 712.

There has not been well established a principle in international law which would make it the duty of a state to assume the responsibility for the collection of debts due its citizens by other states. Intervention by a state within another state where claims are involved usually has not occurred except when a charge of denial of justice based on wrongful discrimination, justice denied, or confiscation has been sustained.[16] The United States customarily has not intervened diplomatically in support of claims originating in contract agreements with foreign governments other than to offer its good offices on behalf of its nationals.[17] Even so, according to an official of

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[16] Marjorie M. Whiteman, Damages in International Law, III, 1555.

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[17] Ibid., III, 1553.

the United States Department of State in 1937:[18]

> It was in large part the influence of pressure groups bent upon selfish gain and immediate material profit that led more than once to our interference in the internal affairs of our Central and South American sister republics, finally resulting in armed intervention and the sowing of fears and deep-seated resentment.... It was not dislike of North American people but fear of North American guns which lay at the root of much South American bitterness.

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[18] Francis B. Sayre, "Our New Pan American Policy," in S. D. Meyers (ed), International Institutions and World Peace, Proceedings of the Fourth Annual Conference Institute Public Affairs Auspices Carnegie Endowment for International Peace. Dallas, Waxahachie, Denton, Fort Worth, 1937, p. 182.

Latin-American governments consistently have maintained that American international law forbade intervention by one state in the affairs of another and have regarded the Calvo clause as a settled principle in international law in America if not elsewhere. The concept of an "American" international law had its origin at least a century ago and has been developed in particular by Alejandro Alvárez of Chile around the thesis that the institutions, principles, rules, doctrines, and conventions proper to the New World form the American international law.[19] As early as 1810 the Chilean patriots Martínez

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[19] John P. Bullington, "Is There an American International Law?" in S. D. Meyers (ed.), International Institutions and World Peace, Proceedings of the Fourth Annual Conference, Institute of Public Affairs Auspices Carnegie Endowment for International Peace. Dallas, Waxahachie, Denton, Fort Worth, 1937, pp. 248-250.

de Rozas and Juan de Egana declared that "... the States of America must unite for their external security against the aims of Europe, and to avoid wars between themselves ... each preserving ... its own internal economic policy."[20] The concept

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[20] Charles W. Hackett, "Historical Bases of Pan Americanism, 1810-1933," in S. D. Meyers (ed.), International Institutions and World Peace, Proceedings of the Fourth Annual Conference Institute of Public Affairs Auspices Carnegie Endowment for International Peace. Dallas, Waxahachie, Denton, Fort Worth, 1937, p. 185.

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that an international law peculiar to America was developing received support from the action of the various Pan American conferences beginning in 1901.

At the Second Pan American Conference in Mexico City in 1901 a convention on the formation of codes of private and public international law of America was signed by seventeen delegations and later ratified by five although not by the United States.[21] At the Third Pan American Conference in 1903

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[21] Ibid., 190.

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a convention was adopted setting up a committee to formulate a Code of Private and Public International Law to regulate relations among the American states; this convention was ratified by seventeen governments.[22] The Sixth Pan American Con-

[22] Ibid., 192.

ference in 1928 saw a bitter dispute over the inclusion in American Public International Law of a resolution by the Commission of Jurists declaring that no state might intervene in the internal affairs of another.[23] Action on this resolution

[23] Ibid., 198.

was postponed after vigorous opposition on the part of the United States, but at the Seventh Conference in 1933 a convention was signed which declared that "no state has the right to intervene in the internal or external affairs of another," the United States approving with reservations.[24] At the Buenos

[24] Ibid., 200.

Aires Conference in 1936 the United States unequivocably abjured the right of intervention and abandoned the unilateral interpretation of the Monroe Doctrine.[25] Yet at the Eighth Pan

[25] J. Lloyd Mecham, "The Inter-American Peace Machinery," in S. D. Meyers (ed.), International Institutions and World Peace, Proceedings of the Fourth Annual Conference Institute of Public Affairs Auspices Carnegie Endowment for International Peace. Dallas, Waxahachie, Denton, Fort Worth, 1937, p. 282.

American Conference at Lima in 1938 the United States still rejected the Calvo clause entirely even though it was supported unanimously by the Latin-American republics; seemingly this would have made it international law in America. However, the United States declared it out of harmony with universal international law and cited European precedent to overthrow a purely American principle.[26]

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[26] Antonio Gómez Robledo, Etopeya del Monroismo, 118-119.

At the Bucareli Conference the Mexican commissioners emphasized the fundamental difference between positive acts and expectations of rights, a distinction which, if not considered, would have made accusations possible against Mexico of which it was not guilty.[27] Nevertheless Mexico had eventually to

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[27] González Ramírez, El Petróleo Mexicano, 134.

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abandon positions of great importance in international law.[28]

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[28] Enríquez, Problemas Internacionales, 15.

The conference agreed that in the expropriation of land for the establishment of ejidos that areas up to the usual size of an ejido (4,336 acres) could be taken and paid for by bonds, as the constitution provided, without the United States ob-

jecting; but areas above that amount could not be taken without being compensated for at once in cash.[29] Furthermore the theory that foreigners should receive a share of the compensation allowed for damages done to a Mexican firm in which they were shareholders and that their receiving such compensation was a concern of their governments was upheld at Bucareli for the first time in the history of international law as developed in the previous Mexican-American agreements on claims.[30] As one of the American commissioners later stated, Mexican corporations consisting in large part of United States stockholders could not make claims against their own government before an American commission. Hence, some method of giving such stockholders protection being deemed essential, a provision was included in the Bucareli agreements that the Mexican government would ex gratia permit such bondholders to make claims proportionate to their holdings in the corporations concerned.[31]

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[29] Howland (ed.), Survey of American Foreign Relations, 82-83.

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[30] Gómez Robledo, Bucareli Agreements, 123.

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[31] The Legal Aspects of Our Relations with Mexico. Address by Charles Beecher Warren of Michigan at the Forty-eighth An-

nual Meeting of the American Bar Association Held at Detroit, Michigan, September 2nd, 3rd, and 4th, 1925, p. 14.

As for property rights in the subsoil, the commission adopted the views expressed by the Supreme Court in the Texas Company case and accepted the doctrine of positive acts, although precisely of what a positive act consisted was not clearly decided except that the meaning was broader than had previously been the case. It was agreed also that two claims commissions should be established to determine the amounts due for damages resulting from the revolution and for losses resulting from agrarian reform and expropriation of properties.

Obregón's interpretation of the work of the Bucareli Conference in his message to the Mexican congress in 1923 was that it had been an inter-exchange of impressions and information as a result of which the Mexican commissioners agreed to coordinate the revolutionary conquests in connection with oil and land with the principles of international law.[32] The resumption of diplomatic relations thus gained with the United States after three years of interruption was not, according to Obregón, the fruit of compromises or agreements made for such a purpose exclusively or of anything which could contravene Mexican laws, the norms of international law, or the

[32] Informes por Obregón, 31.

sovereignty of Mexico.[33] To the Mexican congress, judging from its reply to Obregón's message, the work preliminary to the resumption of relations with the United States constituted a real triumph for Mexican diplomacy which maintained unbesmirched the fundamental principles of Mexican legislation. Furthermore, by producing a renewal of formal relations with the United States, the result was a source of rejoicing for Mexico since it signified that the political and social program of Mexico would not be threatened or interrupted by contingencies of foreign policy.[34] González Ramírez shrewdly observed that the work of Obregón made possible ultimately the free application of the constitution and the existence of the republic since it destroyed the American proposal for a treaty of commerce and friendship which would have limited the constitution and since it secured recognition at last for Obregón's government. History had already demonstrated that a Mexico engaged

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[33] Ibid., 32.

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[34] Informes por Obregón, 90. Relations were resumed September 3, 1923. When the claims agreements formed as a result of the Bucareli Conference came before the Mexican Senate, one of the chief opponents of the agreements, Senator Field Jurado, was murdered in a major street in broad day but not one of his murderers was seen or captured. The papers subsequently were ratified by the Mexican Senate. See Cuellar, Expropiación y Crisis en México, 557.

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in making and breaking presidents had lost half her territory.[35]

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[35] González Ramírez, El Petróleo Mexicano, 209-210. See also H. N. Branch, "The Mexican Constitution of 1917 Compared with the Constitution of 1857," in The Annals of the American Academy of Political and Social Science, XLLI, supplement.

The formal claims agreements were drawn up September 8-10, 1923. The first was the General Claims Agreement of September 8, 1923, in which it was agreed that all claims, except those arising from revolutionary acts in Mexico, originating since the Convention of July 4, 1868, should be submitted to a commission of three persons--one representing the United States, one representing Mexico, and a third member, selected by mutual agreement of the first two as a neutral. The commission was to have authority to decide the validity of claims and the compensation due, with the total claims of each country to be summed up and the difference between the two amounts to be paid in gold to the country having the smaller claims against it. The decisions of the commission were to be final and to be completed within three years unless the two governments agreed to extend the time for it to work.[36] The agreement of

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[36] Treaty Series No. 678. Convention between the United States and Mexico. General Claims. September 8, 1923, pp. 1-9.

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course compelled all American citizens with claims to turn

them over to the government for presentation to the claims commission thus set up.[37]

[37] Claims of American Nationals against Mexico, 184. It should be kept in mind that the claims included oil claims, the evaluation of which involved or could involve the constitution of 1917, property rights in oil, etc. See Enríquez, Problemas Internacionales, 71.

A second agreement, concerning claims arising from revolutionary damage, was formalized on September 10, 1923. According to it all claims of American citizens arising from losses or damages due to revolution and disturbed conditions in Mexico between November 20, 1910, and May 31, 1920, were to be submitted to a commission of three persons--one representing the United States, one representing Mexico, and a third member, selected by mutual agreement of the first two, as a neutral. The claims submitted to the commission were to be decided on the basis of justice and equity, not by generally accepted principles of international law, since the payment was due solely to a sense of moral obligation on the part of Mexico and not to necessity according to international law. Claims were not to be rejected even if legal remedies had not been exhausted prior to their presentation to the commission, as international law required, and five years were to be allowed the commission to complete its work, which was to be final. The total award was to be paid to the United States government in gold or the equivalent.[38]

[38] Treaty Series No. 676. Special Claims Convention between the United States and Mexico for the Settlement of Claims of American Citizens Arising from Revolutionary Acts in Mexico from November 20, 1910, to May 31, 1920. Mexico City, Sept. 10, 1923, pp. 1-9.

The two treaties were the only formal agreements growing out of the Bucareli Conference. The conference itself merely produced a set of minutes of its proceedings which were not included in the formal treaties producing the claims agreements.[39]

[39] Gómez Robledo, The Bucareli Agreements, 89.

Therefore, not being ratified by the Mexican or the American senates or approved by the presidents of the respective countries, the work of the commission was not binding on successive governments although its close connection with the actual treaties produced an important influence on the work of the claims commissions set up. The minutes inevitably formed an interpretative basis for the General Claims Commission to follow in settling claims.[40]

[40] Ibid., 92-93.

The pledge that the Mexican government would not enforce Article 27 retroactively and the broadening of the meaning of positive acts were not, therefore, formalized in a treaty be-

tween the United States and Mexico as were the claims agreements. The Bucareli Conference nevertheless brought to an end the struggle between the United States and Mexico over the Constitution of 1917 by producing agreement that the constitution was not retroactive, that the dominion of the state did not extend to oil properties acquired before 1917 on which positive acts had been exercised, and that oil in the subsoil could be the property of the surface owner but not until it had been subjected to possession.[41]

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[41] Enríquez, Problemas Internacionales, 56-57. The statement that the conferences of 1923 resulted in agreement that American oil properties could not be expropriated except by means of immediate compensation in cash and at a just valuation (See Standard Oil of New Jersey, Present Status, 17, and also The Fine Art of Squeezing, 7.) is not quite accurate.

The Bucareli Conference was not universally hailed as beneficial to Mexico by Mexicans themselves. Some protested that it left the socializing principles of the constitution of Mexico without force.[42] Others complained that it saved from

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[42] José Vasconcelos, Breve Historia de México, 592. According to Vasconcelos, Warren declared after the agreements that in saving the property of his fellow Americans he had saved that of the Mexican too since no Mexican government would dare expropriate without effective indemnity Mexican lands when it could not do the same to that of foreigners. Ibid., 604.

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overthrow the regime of Obregón which was radical or even communistic[43] and converted Mexico into an American protectorate.[44]

[43] Marco Marcelo contended that Plutarco Calles, who was Obregón's Secretary of Interior in 1920, had as his adviser a Dr. Dubrowsky, a representative of Lenin; that a Mayan Indian was elected governor of Yucatan and that under the tutelage of Dubrowsky it was converted into a communist state; that the United States actively supported the government of Obregon against the revolt of De la Huerta by sending munitions to Vera Cruz for Obregón and embargoing their purchase in the United States by De la Huerta. See Marco Marcelo, Memorandum on the Relations of the United States with Mexico from the Mexican Viewpoint: 1910-1925, typescript, 48-58.

[44] Ibid., 60.

Still others contended that Obregón was the victim of circumstances, forced by the "plutocracy of Harding" and the threat of the De la Huerta rebellion to make the Bucareli pacts.[45]

[45] Sindicato de Trabajadores Petroleros, La Cuestión Petrolera, 33.

It has been argued also that the impasse between the Mexican government and the United States was broken because Harding and the oil men were hand-in-glove and the Mexican government played off the oil men and their interest in exploiting Mexican oil land against the bankers and their desire to refund the Mexican debt.[46]

[46] Hudson Strode, Timeless Mexico, 268-270.

Shortly after the Bucareli Conference the United States Secretary of State made an address in which some very pertinent

statements were proclaimed in regard to the position of the United States vis-a-vis the Caribbean world. The attitude of the American government in the event of a power conflict within that region was made abundantly clear. Secretary Hughes declared, August 30, 1923:[47]

> Every state enjoys, and the United States no less than any other, the right to object to acts done by other Powers which threaten its own safety. The United States has all the rights of sovereignty, as well as any other Power; we have lost none of our essential rights because we are strong, and other American States have gained none either because of increasing strength or relative weakness.

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[47] Charles E. Hughes, "Observations on the Monroe Doctrine," in The American Journal of International Law, a Quarterly with Supplement Section of Official Documents, XVII, 618.

The claim that the United States was attempting to establish a protectorate in Mexico was answered by Secretary Hughes in the same address:[48]

> The declaration of our purpose to oppose what is inimical to our safety does not imply an attempt to establish a protectorate any more than a similar assertion by any one of the great southern republics of opposition to conduct on the part of any of the others endangering its security would aim at the establishment of a protectorate. I utterly disclaim, as unwarranted, the observations which occasionally have been made implying a claim on our part to superintend the affairs of our sister republics ... to consider the spread of our authority beyond our own domain as the aim of our policy....

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[48] Ibid., 619.

The whole foundation of the Secretary's attitude in re-

gard to Mexico was then made plain:[49]

> By building the Panama Canal we have not only established a new and convenient highway of commerce but we have created new exigencies and new conditions of strategy and defense. It is for us to protect that highway. It may also be necessary for us at some time to build another canal between the Atlantic and the Pacific Oceans and to protect that....
>
> So far as the region of the Caribbean Sea is concerned, it may be said that if we had no Monroe Doctrine we should have to create one.... What has taken place of late years in the region of the Caribbean has given rise to much confusion of thought and misapprehension of purpose. As I have said, the Monroe Doctrine as a particular declaration in no way exhausts American right or policy; the United States has rights and obligations which that doctrine does not define. And in the unsettled condition of certain countries in the region of the Caribbean it has been necessary to assert these rights and obligations as well as the limited principles of the Monroe Doctrine.

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[49] Ibid., 620.

Following the completion of the claims agreements with the United States, the Mexican government made treaties with France, Spain, Germany, Great Britain, and Italy of similar nature. The conventions with France, Great Britain, and Spain expired in 1930 and were extended after material alterations in the terms of the treaties.[50]

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[50] Howland (ed.), Survey of American Foreign Relations, 277.

The work of the General Claims Commission of 1923 was delayed by the selection of the neutral member of the body and, in fact, during both periods of the life of the commission

almost half the time of its work was used up in the problem of selecting a neutral member satisfactory to both governments.[51]

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[51] Dunn, Diplomatic Protection of Americans in Mexico, 404. During this period the Mexican government was being irritated by the ambassador from the United States, Sheffield, who was not only pushing the claims of the United States nationals but also was apparently trying to set in order the Mexican house. See Mitford, Dawn Breaks in Mexico, 84.

By agreement the two governments extended the time for the General Claims Commission to complete its task for two years from August 30, 1927,[52] and subsequently extended the life of

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[52] Claims of American Nationals against Mexico, 169-170.

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the commission again for two years from August 30, 1929.[53]

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[53] Treaty Series No. 801. Convention between the United States and Mexico Further Extending Duration of the General Claims Commission Provided for in Convention of September 8, 1923. Done September 2, 1929.

Likewise the time for the Special Claims Commission to complete its work had to be extended beyond its five year term (calculated from the date of its first meeting). This was done in an agreement prolonging the life of the commission for two years from August 17, 1929.[54] Still the General Claims Com-

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[54] Treaty Series No. 802. Convention between the United States and Mexico Extending Duration of the Special Claims

Commission Provided for in Convention of September 10, 1923. Done August 17, 1929.

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mission did not complete its work within the two-year time and a convention made in Mexico City, June 18, 1932, continued the commission's life after August 30, 1931, for a two-year period beyond the date of the exchange of ratifications; as ratifications were not exchanged until February 1, 1935, the effect was to extend the life of the commission until February 1, 1937.[55] The work of the commission in reality stopped about

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[55] Claims of American Nationals against Mexico, 172-173.

July, 1931, after 124 awards had been made to Americans, none of which included agrarian claims.[56]

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[56] Ibid., 229.

In the meanwhile both governments, apparently having overlooked the fact that ratifications of the protocol of 1932 had not been exchanged, took up the subject of the settlement of the claims as the customary two-year period for the life of the commission began to run out in 1934. The result was the protocol of April 24, 1934, by which the two states agreed to a separation of agrarian claims from general claims. Thereafter general claims, other than agrarian, were to be settled by two commissioners named by the respective governments who

were to appraise non-agrarian claims already presented and to complete briefs on others; to present a report on the liability due the claimants where the two commissioners could agree after which the two governments would arrive at an en bloc or individual settlement. Claims not adjudicated were to be evaluated by an umpire to be selected at a later date.[57] This commission

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[57] Executive Agreement Series No. 57. General Claims. Protocol between the United States of America and Mexico. April 24, 1934.

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was to complete its work within a two-year period from November 1, 1934, at the latest. Under it about thirty-six non-agrarian claims of American nationals were decided out of some four hundred discussed while about 1030 claims were presented but not studied before the dissolution of the commission in October, 1937.[58] In the meantime the two governments discover-

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[58] Claims of American Nationals against Mexico, 229. The two commissioners were Oscar W. Underwood, Jr., and Benito Flores.

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ed that the previous extension of the life of the General Claims Commission had not been ratified so that the extension and the protocol were approved at the same time, February 1, 1935.[59] The settlement of agrarian claims was left therefore

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[59] Ibid.

to the original General Claims Commission of 1923 until February 1, 1927.

Also on April 24, 1934, the Mexican and American governments came to an agreement on special claims. During its lifetime the commission on special claims had partly adjudicated 2,833 claims but it acted finally on only eighteen American claims, all of which were rejected.[60] By convention the two

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[60] Ibid., 228.

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countries decided on an en bloc adjustment of all special claims. A commission of two was established to determine the total amount due and to validate claims presented. The method of determining the total amount due was to take the total sum awarded by Mexico to states with whom she already had settled special claims, multiply it by a hundred, and divide by the total claimed; this percentage would be multiplied by the total amount claimed by United States nationals and the product divided by one hundred.[61] The sum of money thus obtained would

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[61] Special claims in pesos due to various countries and payments made on them are given in the following table:

	Claim	Grant	Paid	Balance
Germany	6,169,086	508,912	508,912	.....
Belgium	1,323,940	165,607	165,607	.....
Spain	184,537,302	4,037,243	.....	4,037,243
United States	743,982,722	19,612,872	12,600,000	7,012,872
France	48,295,003	1,362,426	619,284	743,142
England	138,530,594	3,795,898	2,070,490	1,725,408

Italy	7,850,810	315,099	143,227	171,872
Total	1,130,689,457	29,798,057	16,107,520	13,690,537

See Secretaría de la Economía Nacional, Dirección General de Estadística, Anuario Estadístico de los Estados Unidos Mexicanos, 1941, p. 920. Hereafter cited as Secretaría de la Economía Nacional, Anuario Estadístico.

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be paid in Washington in United States dollars at the rate of $500,000 per year beginning January 1, 1935.[62] Under this

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[62] Treaty Series No. 878. En Bloc Settlement of Special Claims, Convention between the United States of America and Mexico. Done at Mexico City, April 24, 1934.

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agreement it was determined that the government of Mexico was to pay the government of the United States $5,448,020.14.[63]

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[63] Enríquez, Problemas Internacionales, 19.

The allocation of this money among United States nationals was to be done by the American government and on April 10, 1935, the United States provided that a commission of three should be set up to determine the percentage of his claim each claimant should receive.[64] Subsequently the United States Senate

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[64] Claims of American Nationals against Mexico, 162-164.

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resolved that general claims reclassified as special should

be added to the number of claims to be paid from the $5,448,020.14 given by Mexico in the en bloc settlement.[65]

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[65] Ibid., 164-166.

The settlement of unadjusted agrarian claims and the remainder of the general claims waited until the crisis precipitated by the expropriation of the oil industry[66] in March, 1938.

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[66] Which is treated separately below in Chapter XI.

The period of time for the work of the two commissions attempting to settle general claims--that set up originally by the Treaty of September 8, 1923, and that established by the protocol of 1934--had expired February 1, 1937. Conversations concerning an extension of the life of the commissions studying the claims or some method of settlement of them were under way when the expropriation of the oil industry added a new and heavy burden to the weight of claims against Mexico. In a statement to his press conference March 30, 1938, Secretary of State Hull reopened the question of agrarian claims as follows:[67]

> During the last few years the Mexican Government in pursuance of its national policy has expropriated and is continuing to expropriate the properties of citizens of other countries in Mexico and of its own citizens. Among these have been many hundreds of farms and other properties of American citizens. Many of our nationals have invested their savings in these properties, have undertaken improve-

> ment therein of various kinds, and have been dependent upon them for their own livelihood. This Government has not undertaken and does not undertake to question the right of the Government of Mexico in the exercise of its sovereign power to expropriate properties within its jurisdiction. This Government has, however, on numerous occasions and in the most friendly manner pointed out to the Government of Mexico that in accordance with every principle of international law, of comity between nations, and of equity, the properties of its nationals so expropriated are required to be paid for by compensation representing fair, assured, and effective value to the nationals from whom these properties were taken. The recent expropriation by the Mexican Government of oil properties belonging to American citizens is, therefore, but one incident in a long series of incidents of this character and accordingly raises no new question. The subject now under consideration between the Government of the United States and the Government of Mexico is the matter of compensation for various properties of American citizens expropriated in the past few years. It is my very earnest hope because of the very friendly relations existing between the two Governments a fair and equitable solution of this problem may soon be found by the Mexican Government.

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[67] S. Shepard Jones and Denys P. Myers (ed.), Documents on American Foreign Relations, January, 1938-June, 1939, pp. 122-123. Secretary Hull's statement to the press followed the delivery to the Mexican government of a note on March 29, 1938, which so upset Ambassador Josephus Daniels in Mexico that he requested the Mexican government not to release the note to the public. Daniels was so disturbed by the tenor of the note that he warned Washington such procedures might cause Cárdenas's government to fall. Subsequently Secretary Hull by-passed the Ambassador to Mexico and delivered the notes concerning the land question to the Mexican ambassador in Washington, according to Frank L. Kluckhorn, The Mexican Challenge, 123-124.

The reply of the Mexican government to the American note of March, 1938, was not immediate, but on April 19 it did notify the United States that it was willing to make small payments toward the settlement of certain specific items in the claims of the small agrarian expropriations, to which offer the United

States reacted by presenting a detailed list of American small properties claims valued at $10,132,388 by their former owners.[68]

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[68] Shepardson and Scroggs, United States in World Affairs: 1938, p. 249.

Mexico then notified the American government on July 15, 1938, that she was not contemplating covering entirely during the term of office of Cárdenas the whole amount of the properties expropriated.[69] The Mexican attitude toward expropriation had

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[69] Ibid.

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already been defined in a note to the British government on April 12, 1938:[70]

> ... my Government deem it necessary to place on record that there is a universally accepted principle of international law which attributes to all sovereign and independent countries the right to expropriate in the public interest with the payment of adequate compensation; moreover, this principle has been considered and held to mean that the grounds of public interest may be determined by every State at its own discretion, with such latitude as conditions, social and of every other kind, may require in each case.
>
> Consequently, the Mexican Government cannot in any way admit the unjustified limitation which it is sought to place on the right of expropriation, since to admit this would lead to the erroneous conclusion that expropriation is licit only in those cases in which the State is compelled by law to decree it, since this power can and must be exercised at its discretion by the State, for many differing grounds and varying reasons.

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[70] Monica Curtis (ed.), Documents on International Affairs,

1938, I, 462.

The response of the United States to the Mexican note declaring no intent to pay at once was probably disconcertingly rapid, for on July 21, 1938, a lengthy message from Secretary Hull was delivered to Mexican Ambassador Castillo Nájera in Washington. In that note Secretary Hull presented the Mexican government once again with the American view of Mexican responsibility under international law for expropriated properties. The American government declared:[71]

> The issue between our two Governments is whether ... the property of American nationals may be taken by the Mexican Government without making prompt payment of just compensation to the owner in accordance with the universally recognized rules of law and equity.
>
> My Government has frequently asserted the right of all countries freely to determine their own social, agrarian, and industrial problems. This right includes the sovereign right of any government to expropriate private property within its borders in furtherance of public purposes.
>
> The Government of the United States has itself been very actively pursuing a programme of social betterment.... Under this programme it has expropriated from foreigners as well as its own citizens properties of various kinds.... In each and every case the Government of the United States has scrupulously observed the universally recognized principles of compensation and has reimbursed promptly and in cash the owners of the properties that have been expropriated.
>
> Since the right of compensation is unquestioned under international law, it cannot be conceived that insistence on it by this Government should impair in any way the warm friendship which exists between the Government of Mexico and our own....
>
> In its negotiations with the Mexican Government for compensation for the lands of American citizens that have been expropriated, my Government has consistently main-

tained the principle of compensation.

> The taking of property without compensation is not expropriation. It is confiscation. It is no less confiscation because there may be an expressed intent to pay at some time in the future.
>
> We cannot admit that a foreign government may take the property of American nationals in disregard of the rule of compensation under international law. Nor can we admit that any government unilaterally and through its municipal legislation can, as in this instant case, nullify this universally accepted principle of international law....
>
> The whole structure of friendly intercourse, of international trade and commerce, and many other vital and mutually desirable relations between nations indispensible to their progress rest upon the single and hitherto solid foundation of respect on the part of governments and peoples for each others rights under international justice. The right of prompt and just compensation for expropriated property is a part of this structure. It is a principle to which the Government of the United States and most governments of the world have emphatically subscribed and which they have practised and which must be maintained....
>
> The Government of Mexico has professed its support of this principle of law. It is the considered judgment, however, of the Government of the United States that the Government of Mexico has not complied therewith in the case of several hundred separate farm or agrarian properties taken from American citizens. This judgment is apparently not admitted by your Government. The Government of the United States therefore proposes that there be submitted to arbitration the question....

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[71] Curtis (ed.), Documents on International Affairs, 1938, I, 441-442.

The tone of this note was so sharp, with its accusation of confiscation, violation of international law, and demand for arbitration, that the Mexican government was clearly faced with a dilemma of difficult proportions. It avoided the horns

skillfully in its reply which was delivered August 3, 1938:[72]

> My Government maintains ... that there is in international law no rule universally accepted in theory nor carried out in practice, which makes obligatory the payment of immediate compensation nor even of deferred compensation, for expropriations of a general and impersonal character like those which Mexico has carried out for the purpose of redistribution of the land.
>
> The expropriations made, in the course of our agrarian reform, do, in fact, have this double character which ought to be taken very much into account in order to understand the position of Mexico and rightly appraise her apparent failure to meet her obligations....
>
> The political, social, and economic stability, and the peace of Mexico, depend on the land being placed anew in the hands of the country people who work it; a transformation of the country, that is to say, the future of the nation, could not be halted by the impossibility of paying immediately the value of properties belonging to a small number of foreigners who seek only a lucrative end.
>
> On the one hand, there are weighted the claims of justice and the improvement of a whole people, and on the other hand, the purely pecuniary interests of some individuals. The position of Mexico in this unequal dilemma could not be other than the one she has assumed, and this is not stated as an excuse for her actions but as a true justification thereof....
>
> If your Government has been in a position to make the payment of compensation at once, this circumstance only indicates that its economic circumstances permitted of doing so, but certainly it could not have postponed or abandoned those reforms, even in case such conditions had not been favorable.... there does not exist, in international law, any principle universally accepted by countries, nor by the writers of treaties on this subject, that would render obligatory the giving of adequate compensation for expropriations of a general and impersonal character. Nevertheless Mexico admits, in obedience to her own laws, that she is indeed under obligation to indemnify in adequate manner; but the doctrine which it maintains on the subject, which is based on the most authoritative opinions of writers of treatises on international law, is that the time and manner of such payment must be determined by her own laws.

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[72] Ibid., I, 442-443.

The Mexican government then pointed out that in determining compensation the amount to be paid was the prime necessity and that it had not been possible for Mexico and the claimants, or for Mexico and the United States government, to agree on what was due each claimant. Furthermore, Mexico felt that insistence on payment under such circumstances was in reality a demand for special treatment of foreigners. The note pointed out:[73]

> ...the foreigner who voluntarily moves to a country which is not his own, in search of a personal benefit, accepts in advance, together with the advantages which he is going to enjoy, the risks to which he may find himself exposed. It would be unjust that he should aspire to a privileged position safe from any risk, but availing himself, on the other hand, of the effort of the nationals which must be to the benefit of the collectivity.
>
> ...at the Second Pan-American Conference, held at Mexico City in 1902, a formula which was broadened and reinforced by Article 9 of the Convention signed at the Seventh Pan-American Conference ... reads: "The jurisdiction of the States within the limits of the national territory, is applicable to all the inhabitants. Nationals and foreigners who are under the same protection of the national legislation and authorities the foreigners cannot claim rights different from or more extensive than nationals." [sic.]
>
> The demand for unequal treatment is implicitly included in your Government's note for while it is true that it does not so state clearly, it does require the payment to its nationals, independently of what Mexico may decide to do with regard to her citizens, and as your Government is not unaware that our Government finds itself unable immediately to pay the indemnity to all affected by the agrarian reform, by insisting on payment to American landholders,

> it demands, in reality, a special privileged treatment which no one is receiving in Mexico....

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[73] Curtis (ed.), Documents on International Affairs, 1938, I, 444-445.

The government of Mexico then proceeded to reject the American proposal of arbitration, for the following reasons:[74]

> Arbitration should be reserved ... for cases of irreducible differences in which the juridical principle under discussion or the act giving origin to the arbitration are of such a character that the two peoples at variance do not find any more obvious way of coming to an agreement. Such is not the present case, for while it is true that Mexico does not consider that payment of an indemnification for properties which the State expropriates on ground of public utility, is an invariable and universal rule of international law, it is also true that ... the Mexican Government has never denied such obligation. There is not subject matter, therefore, for the arbitration proposed.

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[74] Ibid., I, 445.

In its note to the United States the Mexican government had left the way open for further correspondence on the subject of claims, although it had rejected the major American contentions of the note of July 21.

The vigorous correspondence continued with an American reply to the Mexican government being delivered on August 22, 1938. In his reply Secretary of State Hull at great length explained to the Mexican government his view of the evolution of international law concerning compensation as a factor in

the rise of civilization and expressed considerable astonishment at the attitude of the Mexican government. The note also came perilously near to presenting the government of Mexico with an ultimatum. According to Secretary Hull:[75]

> My Government has in mind that the doctrine of just compensation for property taken originated long in advance of international law. Beyond doubt the question first arose when one person sought to take the property of another. Civilized society determined that common justice required that it be paid for....
>
> The contention asserted by the Mexican Government ... and as evidenced by its practices in recent years, is plainly this: that any government may, on the ground that its municipal legislation so permits, or on the plea that its financial situation makes prompt and adequate compensation onerous or impossible, seize properties owned by foreigners within its jurisdiction, utilize them for whatever purpose it sees fit, and refrain from providing effective payment therefor, either at the time of seizure or at any assured time in the future.
>
> I do not hesitate to maintain that this is the first occasion in the history of the western hemisphere that such a theory has been seriously advanced. In the opinion of my Government, the doctrine so proposed runs counter to the basic precepts of international law and of the law of every American republic....
>
> The fundamental issues raised by this communication from the Mexican Government are therefore, first, whether or not universally recognized principles of the law of nations require, in the exercise of the admitted right of all sovereign nations to expropriate private property, that such expropriation be accompanied by provision on the part of such government for adequate, effective, and prompt payment for the properties seized; second, whether any government may nullify principles of international law through contradictory municipal legislation of its own; or, third, whether such government is relieved of its obligations under universally recognized principles of international law merely because its financial or economic situation makes compliance therewith difficult.
>
> The Government of the United States merely adverts to a self-evident fact when it notes that the applicable precedents and recognized authorities on international law

> support its declaration that, under every rule of law and equity, no government is entitled to expropriate private property, for whatever purpose, without provision for prompt, adequate, and effective payment therefor....
>
> The universal acceptance of this rule of the law of nations ... does not in the view of this Government admit of any divergence of opinion....

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[75] Curtis (ed.), Documents on International Affairs, 1938, I, 446-447. Hull's reference to the Western Hemisphere should be noted.

The somewhat polemical nature of this note obscured the fact that Secretary Hull was declaring as basic concepts of international law some principles accepted by the United States which were, fortunately or unfortunately as the case might be, not universally accepted by all civilized nations and was alluding to Anglo-Saxon principles of equity in correspondence with a state which did not base its legal system upon the same jurisprudence. The note continued:[76]

> The Mexican Government now advances the surprising contention that it may expropriate property and pay therefor, in so far as its economic circumstances and its local legislation permit, but that if these circumstances and legislation do not make possible the payment of compensation, it can still take the property. If this theory were sound, the safeguards which the fundamental laws of most countries and established international law have sought to provide for private property would be utterly worthless. Governments would be free to take private property far beyond or regardless of their ability or willingness to pay.... The Government of the United States cannot admit that any government may of its single will, whether through its municipal legislation or by pleading economic inability, abandon the recognized principle of international law requiring just compensation....

> Is it conceivable that in order to attain these desirable objectives it is necessary for government to rest the entire undertaking on a policy of confiscation? Every sovereign nation is in possession of powers to regulate its internal affairs, to reorganize, when needful, its entire economic, financial, and industrial structure, and to achieve social ends by methods conforming with law.
>
> Instead of using these recognized and orderly methods, the Government of Mexico in effect suggests that whenever special conditions or circumstances obtain in any one country, that country is entitled to expect all other nations of the world to accept a change in the settled rules and principles of law ... to replace the rule of just compensation by the rule of confiscation....
>
> This Government ... must either assert and maintain with all vigour the doctrine of just compensation, or else acquiese in the repudiation and abolition of that doctrine. Obviously it cannot adopt the latter course....
>
> The vital interest of all governments and of all peoples in this question and the imperative need of all countries to maintain unimpaired the structure of common justice embodied in international as well as in basic national law, lead me, particularly in view of the warm friendship existing between the two countries, to appeal most earnestly to the Mexican Government to refrain from persisting in a policy and example which, if generally pursued, will seriously jeopardize the interests of all peoples throughout the world.

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[76] Curtis (ed.), Documents on International Affairs, 1938, I, 448-449.

Having repeated the charge of confiscation and having accused Mexico of essentially bad faith in her dealing with international law, Secretary Hull then virtually threatened the Mexican government with direct American intervention, apparently leaving the issue closed to further discussion. He then turned his attention to the Mexican charges that the United

States was demanding unequal treatment for Americans by the Mexican government:[77]

> Your Excellency's Government intimates that a demand for unequal treatment is implicit in the note of the Government of the United States, since my Government is aware that Mexico is unable to pay indemnity immediately to all of those affected by her agrarian reform and yet it demands payment to expropriated landowners who are nationals of the United States. This, it is suggested, is a claim of special privilege which no one is receiving in Mexico.
>
> I must definitely dissent from the opinion thus expressed by the Government of Mexico. The Government of the United States requests no privileged treatment for its nationals residing in Mexico ... the United States has on repeated occasions made it clear that it would under no circumstances request special or privileged treatment for its nationals in the other American republics, nor support any claim of such nationals for treatment other than that which was just, reasonable, and strictly in harmony with the generally recognized principles of international law.
>
> The doctrine of equality of treatment, like that of just compensation, is of ancient origin.... There is now announced by your Government the astonishing theory that this treasured and cherished principle of equality, designed to protect both human and property rights, is to be invoked, not in the protection of personal rights and liberties, but as a chief ground of depriving and stripping individuals of their conceded rights. It is contended ... that it is wholly justifiable to deprive an individual of his rights if all other persons are equally deprived, and if no victim is allowed to escape. In the instant case it is contended that confiscation is so justified. The proposition scarcely requires answer....
>
> When aliens are admitted into a country the country is obligated to accord them that degree of protection of life and property consistent with the standards of justice recognized by the law of nations. Actually, the question at issue raises no possible problem of special privilege. The plain question is whether American citizens owning property in Mexico shall be deprived of their properties and, in many instances, their very livelihood, in clear disregard of their just rights. It is far from legitimate for the Mexican Government to attempt to justify a policy which in essence constitutes bald confiscation by raising the issue of the wholly inapplicable doctrine of equality.

[77] Curtis (ed.), Documents on International Affairs, 1938, I, 450-452. A Mexican view on the privileged position of foreigners was that since civil and political laws in Mexico had not been enforced in favor of Mexicans but had been for the foreigner, the latter did enjoy a privileged position but one best remedied by raising the condition of Mexicans. See Address of Mr. Luis Cabrera, 13.

Quite probably the only consolation the Mexican government derived from the situation after the delivery of this note was that the American government already had made it plain that direct intervention was not going to take place in Mexico; hence the tone of the note was not to be taken to indicate action in harmony would necessarily follow.[78] It was also plain,

[78] At the Montevideo Conference in May, 1933, Secretary Hull had announced that the United States government was not henceforth to be considered as an agent for the collection of the private debts due United States citizens from Latin America and he had also renounced the right of the United States to intervene in the internal affairs or governmental procedures of other nations. See Charles W. Hackett, "Recent Trends in Latin-American Relations," in S. D. Meyers, (ed.), The Southwest in International Affairs, Proceedings of the Third Annual Conference Institute of Public Affairs Auspices Carnegie Endowment for International Peace, 1936, pp. 59, 65. In 1937 the United States signed an agreement with Mexico which ended the rights granted in the Gadsden Treaty to the United States to transport troops and munitions across Mexican territory and to protect a railroad to be built across the Isthmus of Tehuantepec. See Francis B. Sayre, "Our New Pan American Policy," in S. D. Meyers (ed.), International Institutions and World Peace, Proceedings of the Fourth Annual Conference Institute Public Affairs Auspices Carnegie Endowment for International Peace, Dallas, Waxahachie, Denton, Fort Worth, 1937, p. 180. And a member of the State Department had declared in 1936 that the United States had renounced the right to establish a police force in other countries of the western hemisphere whenever the properties of American citizens in them were believed to be in danger. See Laurence Duggan,

"Our Good Neighbor Policy," in S. D. Meyers (ed.), The Southwest in International Affairs, Proceedings of the Third Annual Conference Institute of Public Affairs Auspices Carnegie Endowment for International Peace, 1936, p. 124.

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however, that the American government was pressing hard for a definite end to the problem at once. The Mexican reply of September 1, 1938, firmly clung to the Mexican view of international law and very audaciously and cleverly accused the American government of being guilty also of uncompensated expropriations. The Mexican note, from the Secretary of Foreign Relations to Secretary Hull, declared:[79]

> Mexico believes ... that it has adjusted its acts to the standards of international law in accordance with the evolution which the traditional concepts of that law have necessarily undergone. Far from judging that its attitude departs from the standard accepted by the civilized world in general and by the republics of this continent in particular, my country considers that its interpretation represents the unanimous conviction of the Ibero-American Republics and reflects juridical thought at the present moment.... Confronted with the inescapable obligation of carrying out the agrarian reform ... my Government must expropriate ... all the lands that may be necessary until their complete distribution, as is ordered by the constitution and by the agrarian code of Mexico, laws which establish the duty of indemnifying the owner of the lands taken, although the delivery of the indemnification might have to be postponed. The rights of society are in this case beyond doubt, and the social necessity is so urgent that its satisfaction cannot be subordinated to the possibilities of immediate payment.... Mexico cannot refrain from carrying out the redistribution of the land although in so doing she might likewise affect foreigners.
>
> This attitude of Mexico is not, as your Excellency's Government affirms, either unusual or subversive....
>
> There are numerous examples of nations whose cultural progress is beyond discussion, which have seen themselves obliged, without repudiating the right of property in the abstract, to issue laws which have signified expropriation

without immediate payment and sometimes without later compensation. Countries might be mentioned which, under pressure of reasons considered to be of public necessity, have forced private individuals to exchange their gold and their gold certificates for money which has already been depreciated, or which was depreciated immediately afterwards. Those countries have also been under necessity to require private persons, without distinguishing between nationals and foreigners, to receive in payment of obligations, which had been contracted in gold, the already depreciated currency of the country. Because expropriation was indirect in these cases it was none the less effective, since the owners of gold and gold certificates in the first example, or of credits payable in gold, in the second one, have seen their property diminish without receiving adequate compensation in return ... the courts of the various countries justified them, in view precisely of the reasons of a superior order and of the public interest.... Some States have incorporated in their public law the fundamental principle that interests of individuals are subordinated to those of the community as was stated by the Spanish Constitution of 1931....

Mexico has maintained that the so-called rights of man, among others, the right to property, with its modalities, are not principles of international law, but that their validity is derived from municipal law. The fact is not disregarded that the contrary opinion upheld by your Government has defenders, but it must be admitted that the point of view of Mexico, far from constituting an unusual theory, lacking substance and without a juridical basis, has in its turn the most solid supports.... It is true ... that respect for property rights is recorded in the constitutions of all States of this continent, but it is also recorded that such right must undergo modifications or suspensions which the general interest, the basis of law itself, may demand. In such cases foreigners cannot consider themselves as immune from the modifications to which local legislation is subject....

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[79] Curtis (ed.), Documents on International Affairs, 1938, I, 455-458. On confiscations, see Charles C. Hyde, "Confiscatory Expropriation," in The American Journal of International Law, a Quarterly with Supplement Section of Official Documents, XVII, 611-628.

Cárdenas, in a report to the Mexican congress in Septem-

ber, 1938, declared that the maintenance of the discussion with the United States over the agrarian lands benefitted only the enemies of the two countries. The costly and vindictive campaign against Mexico in the United States, Cárdenas stated, ignored the fact that each country had distinct problems and different methods for solving them. Only an elevated human understanding, historical and social in nature, could interpret the sense of reciprocity which was needed to create sincere solidarity and harmony among the American republics--the first obligation of all the continent.[80]

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[80] Informe Que Rinde al H. Congreso de la Unión el C. Presidente Lázaro Cárdenas, sobre Su Gestión de Septiembre de 1937 a Agosto de 1938, p. 25.

The American government did not reply to the Mexican note until November 9, 1938, and then very sensibly dropped the subject of whether or not Mexico was a civilized nation aware of the intricacies of international law, although it continued to insist upon compensation and a settlement. Addressed to Castillo Nájera, Mexican ambassador to the United States, the note declared the United States remained convinced of the soundness of its position but was willing in the face of the wish of Mexico to settle the difficulties between the two governments in a spirit of friendship to end discussion of the September 1 note. Instead, the United States suggested that a comprehensive settlement providing for the adjustment of

American claims was desirable since the controversy was threatening to impair the friendly relations between the two countries.[81] The State Department then presented Mexico with five

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[81] Department of State, Press Releases, XIX, 339.

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points on which it understood mutual agreement had been reached and urged their acceptance. The five proposals were:

1. That a commission of two consisting of a representative from each government be set up, the commission having authority to establish the value of American-owned agrarian properties expropriated since 1927. In case of disagreement, a third person, selected under the terms of the Gondra Treaty, should meet with the commission.
2. The commissioners were to be appointed at once, to meet at Mexico City December 1, 1938, to have their expenses paid by their respective governments.
3. The Commissioners were to complete their work not later than May 31, 1939.
4. Compensation was to be determined by considering legitimacy of titles, value of property expropriated, fair return from property which was lost between the time of taking and compensating.
5. Mexico was to pay $1,000,000 in United States currency on the claims before May 31, 1939. After the total

due was determined, the two governments were to agree on the size of annual payments, with Mexico's ability to pay being taken into consideration.[82]

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[82] Ibid., 339-340.

The Mexican government replied to the American note on November 12, 1938, accepting the proposals in the American note as to the technique of settling the claims but emphasizing that the agreement in that respect did not connotate surrender by Mexico in regard to her contentions at law.[83]

> The Government of Mexico ... while reaffirming its conviction that it has not acted contrary to the rules and principles of international law, of justice and equity, by the enactment and application of its agrarian legislation, is in agreement with the plan presented and takes pleasure in recognizing that the sentiments of cordial friendship which unite our two countries have in the end prevailed over differences of a technical and juridical order....
>
> The Government of Mexico deems necessary to have it understood that the decisions reached by the representatives designated, shall in no case extend beyond evaluation of the lands expropriated and the modalities of payment of the amount determined; that they shall not constitute a precedent, in any case nor for any reason; neither shall they decide the juridical principles maintained by the two Governments and applicable to the matter in question.

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[83] Ibid., 340-341. See also Executive Agreement Series No. 158. Compensation for Expropriated Lands: Agreement between the United States of America and Mexico Effected by Exchange of Notes Signed November 9 and 12, 1938, and April 17 and 18, 1939.

By the exchange of notes November 9-12, 1938, the American and Mexican governments had finally agreed on a means of settling the agrarian claims arising after August 30, 1937, the expiration date for the original term of the General Claims Commission. The two commissioners were appointed immediately, Lawrence M. Lawson, representing the United States, and Gustavo P. Serrano for Mexico, both men being members of the International Boundary Commission between the United States and Mexico.[84]

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[84] Ibid., 355.

The two men had six months in which to arrive at an evaluation of the agrarian properties belonging to Americans and expropriated by the Mexican government after August 30, 1927. Before the commission were registered claims for $56,798,598 for 1,936,729 expropriated hectáreas. The United States commissioner arrived at an en bloc valuation of these claims at $22,896,998 while the Mexican commissioner (since individual case records were not available) used Mexican Department of Agriculture figures giving a value of 31.22 pesos per hectárea to the land to arrive at an evaluation of $12,500,000.[85] At

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[85] Enríquez, Problemas Internacionales, 28-29.

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least a lower limit for the sum due was set and Mexico contin-

ued to deposit $500,000 each year as payment on the claims, although the total amount due was not determined during the lifetime of this commission.

Certainly the conclusion of the controversy over agrarian claims arising after 1927 was a major achievement for Mexico and the United States. It was an agreement which included nothing but a modus vivindi by which the two governments provided a means of settling a long and rancorous dispute. It signified nothing in the principles of international law, in internal law, nor in morality; it simply stopped a discussion and set up machinery to eliminate its reoccurence.

Interpretations of the meaning of the settlement varied. Preceding the Lima Conference of the American republics as it did by a few weeks, the settlement seemed to emphasize the strong desire of the United States to remove the most dangerous obstacle to Pan-American harmony which might arise at the meeting and to stress the desire of the United States for solidarity with the sister republics of the Americas.[86] Furthermore, although the agrarian settlement carefully did not mention the oil problem, it seemed nevertheless to set a precedent which might very well be followed in concluding the oil controversy.[87]

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[86] W. T. Stone, "Washington News Letter," in Foreign Policy Bulletin, XVIII, 4.

[87] Shepardson and Scroggs, United States in World Affairs: 1938, p. 253.

Some Mexican writers viewed the settlement as an abdication of honor by the Mexican government since it obligated Mexico to agree to a determination of the value of the lands expropriated from American citizens without discussion of the question of special privilege for foreigners over nationals and since it stipulated that Mexico should deposit one million dollars as payment on the debt before the actual debt had been determined.[88] To escape from the preponderance which this

[88] Gómez Robledo, Etopeya del Monroismo, 111.

agreement seemed to indicate that foreigners still possessed over Mexicans despite international law, one author maintained that Mexico should utilize the bulwark of Ibero-Americanism.[89]

[89] Fernando Puig Cadena, La Expropiación Petrolera: Algunos Aspectos del Problema Que Culminó con el Decreto de Expropiación de 18 de Marzo de 1938. Su Legalidad Conforme a la Legislación Interna. Su Justificación ante el Derecho Internacional, 103. Hereafter cited as Puig Cadena, La Expropiación Petrolera.

Important as the agreement of 1938 unquestionably was, it did not eliminate the whole problem of claims. Left unsettled by it were the general claims recognized in the General

Claims Agreement of 1923 and of course the claims of the expropriated oil companies. The Lima Conference being past and Pan-American solidarity having been achieved, in April, 1940, the United States reopened correspondence with Mexico on the subject of claims. Secretary Hull wrote Ambassador Castillo Nájera on April 3,[90] declaring:

> During the course of the past years there have arisen between the Government of the United States and the Government of Mexico many questions for which no friendly and fair solution ... has been found....
>
> Animated by the desire to find such an adjustment ... of these pending matters, this Government proposed some two years ago an immediate and comprehensive study by representatives of the two governments for the purpose of preparing the way for an expeditious settlement of these controversial questions....
>
> At that very moment the Government of Mexico by an executive decree expropriated large holdings of oil properties, amounting in value to many millions of dollars and belonging to American nationals, for which no payment has been made and for which there is no present prospect of payment....
>
> The Government of the United States readily recognizes the right of a sovereign state to expropriate property for public purposes. This view has been stated in a number of communications addressed to your Government during the past two years and in conversations had with you during that same period.... On each occasion ... it has been stated with equal emphasis that the right to expropriate property is coupled with and conditioned on the obligation to make adequate, effective and prompt compensation....
>
> Expropriation of property by the Mexican Government has been taking place on a large scale since 1915 under the so-called agrarian program. While there are now under way efforts looking to a settlement of agrarian claims arising since August 30, 1927, the large number of such claims which arose prior to that date and which were filed with the General Claims Commission under the Convention of 1923, as well as a very much larger group of general claims, some of which date back over a period of approximately seventy years, remain unadjudicated and not a

> single dollar has been realized by any of the owners of the properties or by any of the other general claimants....
>
> During the last twenty-five years, one American interest in Mexico after another has suffered at the hands of the Mexican Government. It is recognized that the Mexican Government is making payments on the Special Claims ... and has started payments for farm lands expropriated since August 30, 1927. But the Mexican Government has made no compensation for the large number of General Claims of long standing which include an extensive group of claims for the expropriation of farm lands prior to August 30, 1927. It has made no adjustment either of the foreign debt or of the railroad debt both long in default.... Moreover, the question of the railroad debt was further complicated by the expropriation of the Mexican National Railways on June 23, 1937. Finally, on March 18, 1938, the Mexican Government took over American-owned petroleum property to the value of many millions of dollars, and ... not one cent of compensation has been paid.
>
> This treatment of American citizens, wholly unjustifiable under any principle of equity or international law, is a matter of grave concern to this Government. These long-standing matters must of necessity be adjusted if the relations between our two countries are to be conducted on a sound and mutually cooperative basis of respect and helpfulness....
>
> With the submission to arbitration of the oil controversy and the adjustment of the General Claims matter, the two Governments would then be in a position to go forward at the same time with the negotiations interrupted by the oil expropriation for a general settlement of all other pending matters....

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[90] S. Shepard Jones and Denys Meyers (ed.), Documents on American Foreign Relations, July, 1939-June, 1940, II, 224-229.

The note of Secretary Hull was answered by Foreign Minister Hay in May, 1940. The Mexican government in this note rather sharply reiterated its position on compensation:[91]

> It is indisputable that my Government has shown to the point of obviousness its adherence, as provided in its laws, to the principles of compensation, as well as its determination to put it into practice. In a spirit of conciliation, it has refused again to introduce into this affair the point of view authorized and confirmed by numerous examples, that is, that there is no rule in international law universally accepted in theory or in practice which makes obligatory the payment of immediate compensation, immediate indemnization therefore not constituting an inherent element or a condition to the right of expropriation. Nevertheless, and although on other grounds, it is a pleasure for my Government to recognize that there is no divergence with the Government of your country with respect to the obligation imposed on the Mexican nation by its own laws, to make the payment of the proper indemnization.

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[91] Department of State, Bulletin, II, 465-466.

The note continued with a defense by Mexico of the delay in the settlement of claims against her and an indirect offer to proceed to the adjustment of them:[92]

> It is true ... that expropriation of the properties of the petroleum companies occurred precisely when there appeared to be presenting itself a prospect of an adjustment regarding some pending questions, but the time was not chosen by the Government of Mexico, which was obliged to act in view of well-known circumstances....
>
> It must be recognized that there exist important questions between the two governments, for the immediate and equitable adjustment of which the Government of Mexico has shown particular zeal; their solution might be attempted at once, since no justificable reason exists for considering it necessarily indispensible to subject the settlement of other important questions to that of the oil case.

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[92] Ibid.

The Mexican government felt that it had made clear its willingness to pay and its desire to arrive at an adjustment of what was due so that it could be paid:[93]

> It is established with evident clarity that in both cases, that of the petroleum properties and that of the General Claims Commission causes alien to the will of my Government have prevented the carrying out of its obligation to compensate American nationals....
>
> My Government expresses to your Excellency's Government the desirability of renewing the conversations which were suspended when the petroleum case arose, in order to make an endeavor to settle the matters relative to the other subjects which are pending between the two Governments since the Government of Mexico believes that the rapid solution of them all will contribute favorably to drawing closer the good relations between the two countries.

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[93] Ibid., II, 470.

In arriving at an end of the long dispute over claims, the Mexican government still rejected arbitration, however:[94]

> My Government considers that arbitration must not be admitted except when the nation has put into practice in full its rights of sovereignty through the action of its courts and the existence of a denial of justice can be proved....
>
> In the convention relative to the rights of foreigners of January 29, 1902, there was solemnized the principle of the exhaustion of local resources and the consequent propriety of the diplomatic channel, that is to say, the intervention of a government only in cases of manifest denial of justice, abnormal delay or evident violation of the status of aliens....
>
> In the reservation to the Arbitration Treaty signed at Washington in 1939 1929? , Mexico maintained that the differences which fell under the jurisdiction of the courts shall not be the subject of arbitration proceedings except because of denial of justice, and until the decision rendered by the competent national authority passes into the category of res judicata....

> The unanimous will of the continent has been exhibited in the sense that international action in favor of foreigners is only proper when, domestic legal recourses having been exhausted, a case of denial of justice can be shown.

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[94] Ibid., II, 468-469.

Following the rather sharp exchange of notes in the spring of 1940 the two governments did not publish further correspondence on the claims dispute until in November, 1941, the announcement of a general settlement of the claims issue was made. Having rejected arbitration of the question of claims, the Mexican government ended the matter through negotiation with the American government directly. Considering the pressure brought to bear by the United States, some agreement was inevitable since recourse to law within Mexico had been exhausted by claimants and since Mexico had rejected outside adjustment of the claims through an arbiter.

The Claims Convention of November 19, 1941, settled three kinds of claims held against Mexico: general claims presented for adjudication under the Convention of 1923 and the Protocol of 1934; agrarian claims as defined under the agreement of November 9-12, 1938; and other property claims arising between January 1, 1927, and October 7, 1940.[95] Claims not adjusted

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[95] Claims of American Nationals against Mexico, 228.

included the sum due for the expropriated petroleum properties, claims of a personal nature arising after January 1, 1927, claims of United States nationals based on default of Mexican bond payments which were not filed pursuant to the Convention of September 8, 1923, and claims presented by Mexico to the United States in a note of May 16, 1941.[96]

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[96] Treaty Series No. 980. Claims Convention between the United States of America and Mexico. Signed at Washington, November 19, 1941. Ratified January-February, 1942, pp. 3-4. Hereafter cited as Treaty Series 980.

In the agreement of 1941 Mexico and the United States arrived at an en bloc settlement of the pending general claims, deciding that the whole matter should be closed by the payment to the United States of forty million dollars, from which was to be deducted the three million dollars already paid to the United States under the agreement of 1938 and three additional millions to be paid by Mexico on the exchange of ratifications of the new convention. The remaining $34,000,000 (U.S.) was to be paid in annual installments of $2,500,000.[97] The sum

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[97] Ibid., 5-6.

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to be paid was arrived at after the elimination of three possible sets of figures ranging from $42,000,000 to $47,000,000 to $52,500,000 (U.S.) so that the decision on forty million

dollars represented a favorable settlement for Mexico.[98] Furthermore the treaty removed the most irksome of the difficulties between Mexico and the United States which had plagued the two countries from Madero through the presidency of Cardenas. Yet it did not bring the laws of the Mexican revolution before an international tribunal for trial but left them intact and unquestioned as the proper legal statutes of Mexico and of persons residing in Mexico.[99]

[98] Enríquez, Problemas Internacionales, 32. Aguiles Elorduy disagreed, declaring that special claims had been settled at five million dollars or one percent of the total claimed whereas the agreement of 1941 amounted to a settlement at 20% of the claims allowed whereas the usual figure was from two to three percent at best. See Aguiles Elorduy, "The Latest Agreements," in Excelsior, November 29, 1941, p. 4.

[99] Enríquez, Problemas Internacionales, 38-39.

Although Enríquez regarded the 1941 agreement as one of the most important in Mexican history when it was considered in the light of the problems confronting Mexico and the United States and in connection with the delicate international situation of the time,[100] support for the settlement was not unani-

[100] Ibid., 75.

mous within Mexico. Not all agreed that in the future November 19, 1941, would be recognized as a glorious day in Mexican history, recording a great movement of social and economic emancipation, the birth of a new order of democratic Pan-Americanism, and the consecration of the legal work of the Mexican revolution.[101]

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[101] Enríquez, Problemas Internacionales, 41. Wendell C. Gordon, The Expropriation of Foreign Owned Property in Mexico, studies the subject of agrarian claims in his book.

CHAPTER VII

OIL, SILVER, AND THE MEXICAN DEBT

The problem of debt was a serious one for Mexico almost from the beginning of her history; it provoked many disputes (or contributed to them) which had effects much wider than the merely fiscal. After the revolution of 1910 began, the question of debt soon became equally as acute as did other matters because in 1913 Mexico defaulted her exterior debt, and the railroad debt likewise was dropped from the budget in 1914.[1]

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[1] Standard Oil of New Jersey, Present Status, 104.

Victoriano Huerta suspended service for six months on the national debt of Mexico on January 12, 1914, but on March 30, 1914, he ordered resumption of payments within two weeks; the resumption was not effected due to new disturbances.[2]

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[2] Secretaría de Gobernación, Seis Años de Actividad Nacional, 351.

The debt of Mexico at that time consisted of an issue of 1889 of 5% bonds amounting to 49,292,711 dollars (U.S.) guaranteed by 62% of import-export duties; an issue in 1910 of 4% gold bonds for 50,688,126 dollars (U.S.) guaranteed as in the issue

of 1889; and an issue in 1913 of 6% treasury bonds for 29,100,000 dollars (U.S.) guaranteed by 38% of imposts.[3] Un-

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[3] Javier Márquez, Inversiones Internacionales en América Latina: Problemas y Perspectivas. Informaciones Económicas del Banco de México, S.A., 130-131. Hereafter cited as Márquez, Inversiones Internacionales en América Latina.

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guaranteed debts were an issue of 5% bonds by the Federal District in 1889 for 1,385,500 pounds; a gold issue in 1908 of 4½% bonds for 21,788,100 dollars (U.S.) by a private irrigating firm underwritten by the federal government; a gold issue of 4% bonds in 1904 for 37,037,500 dollars (U.S.); an issue of 3% bonds in 1885 for 41,796,250 pesos; an issue of 5% bonds in 1894 for 94,298,200 pesos; 5% bonds of the State of Vera Cruz issued in 1901 and 1906 for 831,200 and 664,000 pesos, respectively; 5% bonds of the State of Tamaulipas issued in 1902 for 741,500 pesos; 5% bonds of Tamaulipas issued in 1906 for 796,600 pesos; 5% bonds of the State of Sinaloa issued in 1907 for 466,700 pesos; a loan to the Compañía del Ferrocarril Nacional de Tehuantepec in 1902 for 1,918,600 pounds, guaranteed by the federal government in 1918; and a 4½% loan for 381,800 pounds in 1908 to the Compañía del Ferrocarril Nacional de Tehuantepec.[4]

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[4] Ibid. These amounts, including a railway debt of 242,361,000 dollars (U.S.), were set at 507,457,000 dollars (U.S.) (principal only) in the debt agreement of 1922. See

ibid. Mexican securities sold in the United States through banks from 1897 to 1914 amounted to 123.1 million dollars of which 69.7 millions were outstanding in 1914. The share of Americans in the railway debt rose from 180,000,000 dollars (U.S.) to $197,000,000 in a reorganization of 1906-1908. See Cleona Lewis, America's Stake in International Investments, 346-347.

With the disappearance from the Mexican budget in the fiscal year 1917-1918 of an item "for public debt,"[5] the dif-

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[5] Gustavo F. Aguilar, Los Presupuestos Mexicanos desde los Tiempos de la Colonia Hasta Nuestros Días, 145.

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ficult relations entangling Mexico with foreign powers became more complex, since the Mexican debt was primarily held, of course, by the citizens of the same states with which Mexico was struggling so bitterly over juridical questions. Yet Mexico had not repudiated her obligations, for Carranza reported to the Cámara de Diputados in 1919 that the promised debts of the government were as follows:[6]

Amortization and interest on public interior and exterior debt and interest of the states up to December 31, 1918:	119,430,667.11 pesos
Interest on gold bonds of the Ferrocarriles Nacionales:	20,299,430.00
Interest on gold bonds for works of irrigation to December 31, 1918:	11,662,323.00
Debt to banks for incantación of metallic reserve:	54,253,658.95
Debt to employees for unpaid salaries:	10,085,595.56
Total:	215,731,674.62 pesos

Debt exterior and interior, unpaid balance:	397,584,182.64 pesos
Bonds of R.R. of Tehuantepec:	4,000,000.00
Gold certificates of monetary commission:	2,960,219.52
Approximate debt for nationalization of railroads and other public services:	100,000,000.00
Debt for claims growing out of the revolution:	100,000,000.00
Debt for other purposes:	120,000,000.00
Total:	724,544,402.16 pesos
Grand Total:	940,276,076.78 pesos

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[6] *Informes de V. Carranza al Cámara de Diputados 1919*, p. 152.

Although Carranza's figures were very round and somewhat low, they at least clearly demonstrated a recognition of obligation. The real problem was for Mexico and her foreign creditors to agree on the limits of the obligation and for Mexico to begin payment on it. For Mexico the latter problem was extremely acute since the revolution had multiplied her financial obligations while decreasing her income with which to pay. Since financial obligations were also foreign relations problems, Mexico's diplomatic status in addition was affected. Already the French government in July, 1917, had notified the United States government that if financial assistance were extended to the Carranza government some condition regarding guarantees concerning provisions of the new constitution which were inconsistent with international law would be de-

sirable.[7]

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[7] Edgar Turlington, Mexico and Her Foreign Creditors, 271

Alberto J. Pani wrote Carranza on September 3, 1919, that persons close to the British government had indicated that pressure from financiers in England might be increased against the government of Great Britain to secure recognition for Carranza if the financiers felt the Mexican government were disposed to accept the aid of England, France, and the United States in solving its international financial difficulties. A certain amount of control over the loans and guarantees offered to Mexico would be expected in return for aid by France, England, and the United States, and Pani was told that a definite tie existed between recognition and Mexico's acceptance of such conditions of financial support.[8]

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[8] Pani to Carranza, September 3, 1919, in Alberto J. Pani, Cuestiones Diversas, 279-280.

In particular the question of income was complicated by its close relationship to activities in the mining industry in Mexico, especially the petroleum business. Of Mexican mineral production in 1910 some 93% was exported and although it is estimated that 20% of the income thus derived stayed abroad, Mexico prospered and met its obligations since foreign

capital poured into the country, in investments in the mining industry, primarily, at the rate of a hundred million pesos a year.[9]

[9] G. Butler Sherwell, Mexico's Capacity to Pay: A General Analysis of the Present International Economic Position of Mexico, 10 ff. Hereafter cited as Sherwell, Mexico's Capacity to Pay.

With the disorder of the revolution and the new property concepts expressed by its leaders, the income of the Mexican government dropped below the self-support level. The difficulty was apparently to be met most easily by taxing the oil industry which also could be brought under control of the new governmental policy at the same time. The first step was the provocative Carranza tax of 1917[10] which, although not a production tax on petroleum, was called so in order to avoid the necessity of using the income produced to pay on the bonded debt, since export taxes were pledged for that purpose.[11]

[10] See above, Chapter III.

[11] Harold E. Davis, "Mexican Petroleum Taxes," in The Hispanic American Historical Review, XII, 408-409.

Luis Cabrera, Carranza's Secretario de Hacienda, called the levy a production tax to supplement the old stamp tax on

mineral output, but the tax applied only to exported oil, not that consumed within Mexico.[12] The tax was not successfully

[12] Ibid. The stamp tax produced 13,100,000 pesos from September, 1918, to June, 1919. See Informes de V. Carranza á la Cámara de Diputados 1919, p. 44.

enforced,[13] and when Obregón levied the pure export tax of

[13] Yet taxes paid by his oil company doubled in amount in 1918, according to Doheny, while oil exported increased only 11%. See Investigation of Mexican Affairs, I, 248.

1921 on petroleu, the oil companies slowed shipments of oil from Mexico and exports dropped from fourteen or fifteen million barrels a month to below six million barrels during July and August, 1921.[14] Since oil shipments accounted for

[14] Ibid., 414. The tax amounted to 2.50 pesos per cubic meter for crude with a density of .96 or less. The tax was reduced to one peso in 1922. See Manterola, La Industria del Petróleo en México, 342-345.

62.1% of Mexico's total exports in the first quarter of 1921,[15]

[15] E. J. Dillon, Mexico on the Verge, 160.

the rather painful financial situation produced for the government is apparent. At the same time Mexico, which desperately

needed United States recognition, could hardly hope to receive it without resuming payment on its bonded debt. It must have been about that time that President Obregón declared that the petroleum companies were the most formidable objects opposed to Mexico's desire for moral, social, and political revindication.[16]

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[16] Eduardo L. Castillo, Ramón Díaz vs. International Petroleum Company: Historia de Un Complot, 11.

A way out of the dilemma was found in a secret conference in August, 1921, between Obregón and the oil industry, represented by Walter C. Teagle of Standard Oil, Harry Sinclair, Edward F. Doheny, J. W. Van Dyke of Atlantic Refining Company, and Amos L. Beatty of the Texas Oil Company.[17] Oil exports

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[17] Davis, "Mexican Petroleum Taxes," in The Hispanic American Historical Review, XII, 414.

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began to rise in September, 1921, as, surprisingly enough, did Mexican bonds. The agreement between the industry and the government, although secret, seemingly provided that the Mexican government would agree to receive its own bonds, then 40% of par in the open market, at 100% from the oil industry in payment of the taxes due from the companies.[18] Very shortly

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[18] Ibid., 414-416. Some pressure other than financial may

have been used by the oil companies to secure the conference, for according to one source the oil companies when faced with a tax increase dropped the number of employees quickly from fifty thousand to twenty thousand by stopping all construction. The discharged were not permitted to use company transportation facilities to reach Tampico and swarms of workers crowded the roads toward the city. Discontent against the government was fanned among both the workers and the ranch owners in the region so that the government yielded and lowered the tax in 1922. See Bach y De la Peña, México y Su Petróleo, 33.

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afterwards agreement with the international bankers holding most Mexican bonds was worked out, apparently the consequence of pressure brought on by the threatened liquidation of the Mexican debt at 40%.[19]

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[19] Davis, "Mexican Petroleum Taxes," in The Hispanic American Historical Review, XII, 418-419.

In the Lamont-De la Huerta agreement of June, 1922, Mexico, by accord with the International Committee of Bankers, undertook to resume payment on her national debt and to pay also the indebtedness on her railway system. According to the agreement the Mexican government was to create a fund from certain specified sources of revenue during the five-year period 1923-1928 from which, beginning in 1928, the government should resume full payment in cash of the service on all bonds covered by the plan. Current interest payments were to be resumed in 1923. Mexico guaranteed at least fifteen million dollars (U.S.) for this purpose in 1923 and promised to

increase this sum by 2,500,000 dollars (U.S.) each year until the fund reached twenty-five millions in 1928. To build the fund, 10% of the gross revenue of the National Railways, all the net revenue, and all the proceeds of the oil export tax were to be set aside.[20] Any gap between the sum needed each

[20] United States of Mexico, Readjustment of Debt. Statement of Modifications of Plan and Agreement Dated June 16, 1927, and of Deposit Agreement Dated July 1, 1922, p. 6. Hereafter cited as United States of Mexico, Readjustment of Debt.

year to meet these obligations and the cash available was to be filled with script not bearing interest until the fifth year, after which it was to pay 3% until it matured fifteen years later. Beginning January 1, 1928, Mexico was to set aside sufficient funds each year in forty equal payments to retire by 1968 all interest in arrears. Further, the National Railway system was to be returned to private control and its rolling stock restored, with the government assuming the payment of principal, interest, and sinking fund of the railway bonds.[21] Current interest payments were to be met from

[21] Ibid., 7.

net revenues of the railway, if any.[22] The total debt treated

[22] Howland (ed.), Survey of American Foreign Relations, 176.

of in the settlement, including the whole external debt except for the 4½% issue in 1908, and adding the railroad debt, was converted into United States dollars, totaling $507,457,000 without interest.[23] Interest, in arrears since 1914, amounted

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[23] Márquez, Inversiones Internacionales en América Latina, 131. Or 508,830,777 dollars (U.S.) according to United States of Mexico, Readjustment of Debt, 41.

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to about two hundred millions.[24] The percentage of direct

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[24] Howland (ed.), Survey of American Foreign Relations, 174. According to Max Winkler, Investments of United States Capital in Latin America, 226, the total debt refunded was 778,337,000 dollars (U.S.).

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debt held by United States citizens was 22.9 while the English (19.6%) and the French (32.4%) also had large holdings in Mexican bonds. The railway debt was held also by foreigners--12.5% being in American hands, and 35.9% and 36.4%, respectively, being held by the British and the French.[25]

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[25] Turlington, Mexico and Her Foreign Creditors, 323.

The Lamont-De la Huerta agreement became effective September 29, 1922, and in 1923 about fifteen million dollars (U.S.) were paid by Mexico (at great sacrifice, according to the Mexican government). On June 30, 1924, the Mexican execu-

tive, Obregón, suspended further payment.[26]

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[26] Secretaría de Gobernación, Seis Años de Actividad Nacional, 352-353. Obregón diverted the pledged revenues to other purposes, according to Howland (ed.), Survey of American Foreign Relations, 178. It should not be overlooked that Obregón's government was granted full diplomatic recognition by the United States in August, 1923. President Plutarco Elías Calles when presenting an amended agreement to the Mexican congress in 1925 declared that the outbreak of a revolt lead by De la Huerta himself plus De la Huerta's actions as Secretario de Hacienda in stimulating administrative disorder and illegally disposing of several millions destined to pay for the first year of the De la Huerta-Lamont settlement forced the suspension of the payments on the debt. See Secretaría de Hacienda y Crédito Público, La Deuda Exterior de México, 52.

The suspension of the Lamont-De la Huerta plan revived the necessity for some adjustment of the Mexican debt with foreigners. Although these negotiations were entirely private, being between Mexico and representatives of the debt-holding group, yet the position of the United States government was clear, in the light of statements made at the Bucareli conference in May, 1923, when the United States had declared in the same breath, "There can be compromise with the fundamental principles essential to international business...," and "The United States wants to be a good neighbor to Mexico and is only anxious to bring about conditions that will make this possible."[27]

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[27] Department of State, Proceedings of the United States-Mexican Commission Convened in Mexico City, May 14, 1923, p. 4.

Interestingly enough during the period of suspension of payments on the debt, a new conference between representatives of the oil industry and the Mexican government was held to determine means of encouraging the industry. This conference lasted from September to October, 1924, the representatives being Secretario de Hacienda Alberto J. Pani, Secretario de Industria, Comercio, y Trabajo Pérez Trevino, C. O. Swain, Avery D. Andrews, Dean Emery, and H. N. Branch (translator).[28]

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[28] Minutes of the Committee of 1924, p. 3.

It was at this meeting that C. O. Swain remarked that the oil companies had paid a little more than the maximum tax which they felt able to bear in 1921-1922 in order that the Mexican government might resume service on the debt.[29] Swain then

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[29] Ibid., 5.

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mentioned that Mexico would do well to realize that capital would go where opportunity was greatest, Venezuela being referred to.[30] While the negotiations were not productive of

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[30] Ibid.

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entirely satisfactory results to the oil men, consultation with the banker's group arrived at the agreement of October

1925, which was to become effective in January, 1926, the revision being made under Pani's direction.[31]

[31] Secretaría de Gobernación, Seis Años de Actividad Nacional, 353. In 1926 new special taxes were levied on oil. Recipients of concessions of exploration had to pay one hundred pesos for each well drilled; holders of concessions to exploit the subsoil in federal zones were to pay the nation 5% of the first fifty cubic meters, 10% of the first hundred cubic meters, and 15% of all over one hundred cubic meters extracted each twenty-four hours. See Manterola, La Industria del Petróleo en México, 377-378.

The revised plan of 1925 provided for a resumption of payments by Mexico under the schedule arranged in 1922 but only upon the direct debt of the government, the railway debt now being excluded but the 1908 issue being included. The interest on the railway debt for 1923-1925 was still covered, however. The payment for 1924-1925 (about seventy-five million pesos) under the original plan which had been suspended was to be paid over a period of eight years, earning 3% interest, while payments due in 1926-1927 were reduced to a lower figure; however, the obligation of Mexico to pay full principal and interest on the debt from 1914 was repeated.[32]

[32] Márquez, Inversiones Internacionales en América Latina, 132. The total debt was not lowered although the removal of the railway debt from the agreement made it appear so.

Arrears of interest on the direct debt were to be paid, amounting to 108,346,230 dollars (U.S.), by payments beginning

January 1, 1928, of 2,708,656 dollars (U.S.) annually. Arrears on the railway debt interest, amounting to 98,526,963 dollars (U.S.), were to be paid in annual installments of 2,463,174 dollars (U.S.) beginning January 1, 1928. The entire oil export tax and a specific sum of five million dollars (U.S.) annually were to be paid to the account of the International Committee of Bankers, payments beginning from collections made on the oil tax after January 1, 1926.[33]

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[33] United States of Mexico, Readjustment of Debt, 8-10.

As for the railways, they were to be returned to private control on December 31, 1925, as provided for in the Lamont-De la Huerta agreement. Beginning January 1, 1926, the entire net revenue of the railways was to be remitted to the Committee of Bankers to retire cash warrants issued on the railway debt. Beginning January 1, 1928, the National Railroad was to make payments on interest in arrears of 2,463,174 dollars (U.S.) annually, and 10% of gross revenues to retire the floating railway debt was to be set aside after January 1, 1926. However, the floating debt continued to be recognized as an obligation of the government.[34]

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[34] Ibid., 11-13. It was this agreement that Ezequiel Padilla declared in the Chamber of Deputies represented an immense sacrifice for the people of Mexico and a true financial victory for Wall Street. See ibid., 75.

In 1926 and 1927 Mexico met its obligations under the agreement but the railways could not and, since they were underwritten by the government, it assumed their debt which made the payments due under the terms of the plan too heavy for Mexico to meet; consequently at the end of 1927 the second agreement was suspended.[35]

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[35] Secretaría de Gobernación, Seis Años de Actividad Nacional, 353.

Mexico's problem was produced by, or complicated by, a change in her sources of revenue precipitated by a drop in her oil production. This decline in oil production had been brought about in part by the hesitancy of the leading oil companies to drill new wells, especially in unproved land, while titles to property remained in doubt and in part by the tax burden the oil industry bore, amounting to 33% of their sales, according to the companies.[36] Since the major part of the

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[36] Joseph E. Sterrett and Joseph S. Davis, The Fiscal and Economic Condition of Mexico: Report Submitted to the International Committee of Bankers on Mexico, May 25, 1938, pp. 204-206. Hereafter cited as Sterrett and Davis, The Fiscal and Economic Condition of Mexico. In 1926 the tax on crude oil was 16% of value produced and not exported and 36% of the value of exported crude, according to Secretaría de Industria, Comercio, y Trabajo, La Industria del Petróleo, 21.

Mexican government's income was from imposts on petroleum, minerals, and external commerce, along with the internal stamp

tax,[37] the drop in percentage of total revenue produced by the oil tax from 20% in 1922 to 11% in 1926.[38] was indeed serious.

[37] Secretaría de Gobernación, Seis Años de Actividad Nacional, 259.

[38] Sherwell, Mexico's Capacity to Pay, 91.

From 1920 to 1927 income from the export tax and the production tax on petroleum declined sharply as the following table indicates.

Taxes in '000's of Pesos Realized from Petroleum[39]

	Export Tax	Production Tax
1920	------	45,479
1921	12,120	50,604
1922	27,606	58,374
1923	18,383	42,153
1924	18,017	39,356
1925	11,778	30,633
1926	10,124	24,276
1927	5,760	11,223

[39] Sterrett and Davis, The Fiscal and Economic Condition of Mexico, 54.

Mexico's declining revenue was not indicated wholly by the drop in tax income from the oil levy, for the hidden but real unfavorable balance of trade was large, since, to off set the exportation of mineral wealth, foreign investments no

longer poured into Mexico in 1926 as they had in 1910. About 18% of the value of minerals exported stayed abroad in 1926 and of 227,298,151 pesos of oil products exported in 1926 only 88,646,227 pesos remained in Mexico while 138,651,924 pesos stayed abroad.[40] In 1926 invisible items in Mexico's balance

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[40] Sherwell, Mexico's Capacity to Pay, 37.

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of payments took 129,613,088 pesos from Mexico, of which sum the oil companies sent out 20,380,660 pesos; despite the seemingly favorable over-all trade balance of 310,490,895 pesos in 1926, the actual trade balance was estimated to have had a deficit of 17,289,842 pesos.[41] At the same time new foreign

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[41] Association of Producers of Petroleum in Mexico, Current Conditions in Mexico, mimeograph, 52.

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investments in Mexico in 1926 were only sixteen million pesos in contrast to 1910's hundred million.[42] That situation, con-

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[42] Sherwell, Mexico's Capacity to Pay, 64.

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sidered in conjunction with the payment to foreign creditors of 75,126,099.32 pesos in 1923-1927,[43] explained at least in

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[43] Sterrett and Davis, The Fiscal and Economic Condition of Mexico, 7.

large part the insolvency of Mexico in 1928. Her payments from 1923-1927 on her debt under the agreements of 1922 and 1926 were as follows:[44]

Amounts Owing and Amounts Paid to International Banker's Commission (U.S. dollars)

	Amount Due	Amount Paid
1923	15,000,000.00	15,001,019.85
1924	17,500,000.00	700,000.00
1925	20,000,000.00	.....
1926	10,692,845.00	13,366,942.02
1927	11,011,901.00	8,495,087.79
Total	74,204,746.00	37,563,049.66

[44] Ibid., 60.

With the suspension of the Lamont-Pani agreement in late 1927 the debt for which Mexico was liable under the International Banker's agreements stood at 1,061,213,123.41 pesos (501,518,494 dollars U.S.). Of this amount, United States citizens held about 28.9%, French citizens about 27.8%, and British 20.7%.[45] The problem of adjusting the payments on

[45] Turlington, Mexico and Her Foreign Creditors, 320.

that debt was the subject of diverse negotiations after 1927 but nothing definite was accomplished until 1942. In January, 1929, Mexico accepted a proposal which suspended interest on all its debt and claims while the whole matter was reviewed

by a commission which was to draw up new agreements within the capacity of the government to pay, the agreements not to extend payment over a forty-five year period nor to draw interest over 5%; the president of Mexico was authorized at the same time to conclude en bloc settlements of all claims held against the government by citizens of foreign countries.[46]

[46] Howland (ed.), Survey of American Foreign Relations, 183-184.

In July, 1930, the Lamont-Oca accord was the result. Under its terms the whole direct government debt was to have been converted into a single refunding issue of 267,500,000 dollars (U.S.), the bonds to mature in 1975.[47] This proposal

[47] Ibid., 191.

would have eliminated the interest and fifteen million dollars of the principal of the direct debt and the interest and thirty million dollars of the principal of the railroad debt.[48]

[48] Salvador Mendoza, Las Objeciones al Convenio Montes de Oca-Lamont, 57-58.

Mexico was to pay annuities which increased from 12,500,000 dollars (U.S.) in 1931 to fifteen millions in 1936 and subsequently, with interest rates to rise to 5% after 1936.[49]

[49] Howland (ed.), Survey of American Foreign Relations, 186.

The agreement was objected to on the ground that it granted a five-to-one margin for speculators, but it was pointed out that the agreement of 1922 gave a twenty-two-to-one margin and that of 1925 a margin of fifteen-to-one; therefore the 1930 proposal represented real progress from the Mexican point of view.[50] Nevertheless the agreement was never made effective.

[50] Mendoza, Las Objeciones al Convenio Montes de Oca-Lamont, 32. Mendoza felt that the objections were specious and accused his countrymen of a psychology which wished to solve technical problems with sentimental criteria. Ibid., 16.

In the meanwhile the Mexican debt continued to grow. Nearly ten million dollars were borrowed from the oil companies between 1928-1933,[51] and in June, 1937, the whole matter was

[51] Association of Producers of Petroleum in Mexico, Current Conditions, mimeograph, 5. In 1935 the American share of the defaulted Mexican debt was 138,795,000 dollars (U.S.). See Lewis, America's Stake in International Investments, 415.

agitated when the Mexican government expropriated the National Railways, thereby consolidating its debt with the national direct debt.[52] This signified the addition of 240,000,000 dol-

[52] Weyl, The Reconquest of Mexico, 270. The railroads were

turned over to the National Railway Workers Union for operation in November, 1937, after a union pledge to pay the government fourteen million pesos yearly for debts, repairs, taxes, and replacements of the system. See Charles A. Thomson, "Friction with Mexico," in Foreign Policy Bulletin, XVII, 4.

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lars (U.S.) principal and 226,000,000 dollars in defaulted interest from the railway debt to an external debt which had already reached 243,000,000 dollars principal and 267,000,000 dollars in defaulted interest.[53] Efforts were made at the end

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[53] British Note to Mexico, May 11, 1938, as quoted in Curtis, (ed.), Documents on International Affairs, 1938, I, 469-471. Mexico's internal debt at this date was 285,000,000 pesos. Ibid.

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of 1937 and early in 1938 to reach an agreement on the debt.[54]

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[54] Secretaría de Gobernacion, Seis Años de Actividad Nacional, 354.

The International Banker's Committee suggested in 1937 that the delinquent interest be eliminated and that the debt be converted from dollars to pesos, one for one, but this offer was rejected.[55]

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[55] Standard Oil of New Jersey, Present Status, 104. This was a reduction of 125%, according to Standard Oil. Ibid.

In the meanwhile general conditions were working to pro-

duce both a crisis and a solution for the Mexican financial situation. The critical point was reached with the expropriation in 1938 of the foreign-owned oil properties, which added tremendously to the financial obligations of the Mexican government. The Mexican public exterior debt in 1938 stood at 928,945,633.76 pesos.[56] The solution was made possible in

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[56] Secretaría de la Economía Nacional, Annuario Estadístico 1939, pp. 676-677.

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large part, it appears, by world conditions which necessitated a secure position for the United States in all of Latin America and especially in Mexico.[57] Mexico, held in an economic

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[57] Samuel Flagg Bemis, The Latin American Policy of the United States, an Historical Interpretation, 348. Hereafter cited as Bemis, The Latin American Policy of the United States.

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and military vise by the United States but stubbornly independent politically, could be forced to a compromise in financial matters but could not be offended in her sovereignty without endangering United States polity. The possibility of healing a long-festering carbuncle lay in this situation. As already has been indicated, settlement of agrarian, general, and special claims was made in November, 1941.

In the settlement of the difficult problem of Mexican finances silver played an important part. The United States

government began in December, 1933, a policy of purchasing silver which was formalized under the Silver Purchase Act of June 19, 1934. The benefits of this policy were extended directly to Mexico by an agreement made in January, 1936, according to which the United States government agreed to purchase through the Bank of Mexico practically all newly-mined Mexican silver.[58] Previously Mexico, like all silver-producing countries, had benefited indirectly from the United States policy since it held up the world price for silver.[59] The policy also benefited foreign owners of silver mines; moreover, 54% of Mexican silver by estimate came from American-owned mines.[60]

[58] Charles A. Thomson, "Mexico's Social Revolution," in Foreign Policy Reports, XIII, 124.

[59] Burt M. McConnell, Mexico at the Bar of Public Opinion, A Survey of Editorial Opinion in Newspapers of the Western Hemisphere, quoting World-News (Roanoke, Va.), 187. Hereafter cited as McConnell, Mexico at the Bar of Public Opinion.

[60] Thomson, "Mexico's Social Revolution," in Foreign Policy Reports, XIII, 124.

Of seventy-two leading mining companies in Mexico, thirty-two were Mexican; seventeen were owned by United States citizens; ten by the British; six by the French; five by the Spaniards;

and the other two by Swiss and Germans.[61] The silver agree-

[61] "Mining under Difficulties: The Struggle in Mexico between Improving Techniques and Social Disorder," in The Atlantic Presents: Trouble Below the Border, I, 39.

ment of December 29, 1937, continued the month-to-month purchase policy the American government had followed for three years and included a provision under which the New York Federal Reserve Bank was to relieve the Bank of Mexico of thirty-five million ounces of accumulated silver.[62] Such an announcement,

[62] Charles A. Thomson, "Washington News Letter," in Foreign Policy Bulletin, XVII, 4.

coupled with a decision to maintain a stable exchange rate between the peso and the dollar, seemed evidence of American friendship for the Mexican government.[63]

[63] Ibid.

Under the stimulus of the United States' policy, Mexican silver production increased from 2,351,087 kilos in 1935 to 2,633,870 kilos in 1937.[64] The American silver purchase pro-

[64] Banco Nacional de Comercio Exterior, El Comercio Exterior de México (1938-1939), p. 564.

gram meant prosperity for Mexico,[65] and with the mining indus-

[65] Thomson, "Friction with Mexico," in Foreign Policy Bulletin, XVII, 4.

try bearing 15-20% of the tax burden,[66] Mexican finances de-

[66] "Mining under Difficulties: The Struggle in Mexico between Improving Techniques and Social Disorder," in The Atlantic Presents: Trouble Below the Border, I, 40. The production tax on metals produced an estimated twenty-five million pesos in 1937. See ibid.

cidedly improved. The value of metallurgical products (chiefly silver) exported from Mexico rose from 255,791,136 pesos in 1929 (60.53% of all exports) to 527,299,105 pesos in 1939 (74.43% of all exports).[67] By March, 1938, United States pur-

[67] Banco Nacional de Comercio Exterior, El Comercio Exterior de México (1938-1939), p. 74.

chases of Mexican silver were averaging about five million ounces monthly.[68]

[68] Charles A. Thomson, "Mexico Nationalizes Oil," in Foreign Policy Bulletin, XVII, 4.

Into this pleasant situation was introduced the Mexican decision to expropriate the oil industry in Mexico[69] with its

[69] Treated separately below, Chapter XI.

consequent reverberations in international relations and Mexican finances. After the expropriation decree of March 18, 1938, the American government announced through the Secretary of State that after April 1, 1938, the United States Treasury would "defer continuation of the monthly silver-purchase arrangements with Mexico until further notice."[70] The Mexican

[70] Department of State, Press Releases, XVIII, 425.

reaction was sufficiently strong that on March 26, 1938, President Cárdenas himself announced in a public address the new American silver policy, which action he asked his nation to judge "calmly and correctly."[71] Certainly financial repercus-

[71] Lázaro Cárdenas, Messages to the Mexican Nation on the Oil Question, 21.

sions were drastic. Before the stoppage actually became effective, a prominent American reporter in Mexico declared that the announced cessation had brought heavy economic pressure to bear on Mexico with companies discharging employees, payments being demanded in dollars, credit suspended in retail stores, and business almost stalled.[72]

[72] Frank L. Kluckhorn, "Mexico Suffers Fiscal Pressure; U.S. Asks Payment," in The New York Times, March 31, 1938, p. 1.

In reality the abandonment by the United States of purchases of Mexican silver affected Mexican business somewhat, but less than was expected, one reason being that silver production was less than 15% of the value of total Mexican exports of the period.[73] More important, the United States con-

[73] "Silver-Plated Mexico," in The Atlantic Presents: Trouble Below the Border, I, 42.

tinued to buy unofficially the same quantity of silver which it had purchased officially before April 1, 1938.[74] As Mexi-

[74] Alfonso García Robles, El Panamericanismo y la Política del Buen Vecino, 67. García Robles felt that Secretary Hull's announcement was probably made to appease the oil companies. See ibid.

co realized, despite the official suspension of purchases of silver, strong enough forces existed to keep the United States buying the metal. The suspension affected American interests since 75% of the investments in Mexican silver mines were American, as were 95% of investments in silver refineries. Further, wide fluctuations in the world silver price would have affected immediately the value of billions of dollars in silver held by

the United States Treasury.[75] In addition the United States

[75] Mario Sousa y González Aparicio, 2 Conferencias Sobre el Problema Petrólero, 38.

was watched closely by the rest of Latin America to see if the silver purchase cancellation meant use of pressure to secure reciprocation from Mexico for five years of moral and financial support from the United States, which, with war clouds over Europe and Asia, had little desire to upset inter-American harmony.[76] Certainly, in spite of denials from the United

[76] Frank L. Kluckhorn, "Cárdenas Appeals to Patriotic Spirit," in The New York Times, March 28, 1938, p. 3. See also "Washington News Letter," in Foreign Policy Bulletin, XVI, 4.

States that the practices of the Treasury had no connection with international policy, it was beyond question that many of the attacks on the silver purchase policy were due to interests which had tried to force unilateral solutions to other problems existing between the United States and Mexico.[77] At

[77] Banco Nacional de Comercio Exterior, El Comercio Exterior de México (1938-1939), p. 569.

any rate, the decision of the United States to cease silver purchases made it impossible for Mexico to continue with its plan for an internal loan of fifty million pesos in 1938--

twenty-five million pesos in 1938 and again in 1940 to pay for the expropriated properties.[78] The Bank of Mexico also announced

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[78] "U.S. Blow to Mexico," in The Times (London), March 28, 1938, p. 13.

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the temporary suspension of the sale of gold, dollars, and foreign currency in general, thereby producing extraordinary movement in the banks and exchanges, and a sharp rise in the price of gold.[79] To add to Mexico's difficulties the Bank of Mexico's

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[79] "Movemiento de Cambios en la Playa," in El Universal, March 20, 1938, p. 1.

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silver and gold reserves dropped 44% from August, 1937, to March, 1938, from 195,000,000 pesos to 110,000,000 pesos.[80]

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[80] Frank L. Kluckhorn, "U.S. Silver Move Sends Peso Down," in The New York Times, March 29, 1938, p. 13.

In approximately the same period call deposits in private banks dropped from 244,600,000 pesos to 174,000,000.[81] Deposits in

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[81] Cuellar, Expropiación y Crisis en México, 421.

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commercial banks dropped from 321,000,000 pesos in 1937 to 293,000,000 pesos in 1938,[82] and gold and silver and foreign

[82] League of Nations, Monthly Bulletin of Statistics, XIX, 619, and ibid., XX, 589.

assets reserves dropped from fifty-five million pesos in 1936 to twenty-six million pesos in 1937, rising only to thirty-four million pesos during 1938.[83] Obviously a serious flight

[83] Ibid., XX, 586.

of capital was taking place in Mexico and much of it apparently was going abroad, for in 1934 about forty-six million pesos paid the export tax, whereas in 1937 the total capital exported from Mexico paying the export tax reached 269,713,256 pesos.[84] At the same time the exchange rate of the peso drop-

[84] Secretaría de la Economía Nacional, Annuario Estadístico 1939, pp. 670-671. See also Chester L. Jones, "Production of Wealth in Mexico," in The Annals of the American Academy of Political and Social Science, CCVIII, 66.

ped from its relatively stable value in dollars in 1937 of 3.599 to 4.517 in 1938 to 5.185 in 1939.[85] In pounds sterling

[85] Banco Nacional de Comercio Exterior, El Comercio Exterior de México (1938-1939), p. 565.

the peso dropped from a stable 17.829 in 1937 to 22.121 in

1938 and in 1939 to 23.039.[86] Naturally accompanying these

[86] Secretaría de la Economía Nacional, Anuario Estadístico 1941, p. 935.

fiscal catastrophes were a drop in the purchasing power of the peso from 84.26 in 1937 to 79.18 in 1938 (1929 100)[87]

[87] Secretaría de la Economía Nacional, Anuario Estadístico 1939, p. 694.

and an inflationary increase in currency in circulation from 270,000,000 pesos in 1936 to 287,000,000 in 1937, continuing to rise to 296,000,000 pesos in 1938.[88]

[88] League of Nations, Monthly Bulletin, XVIII, 568; ibid., XX, 584.

Under these circumstances it was not surprising that a severe depression hit Mexico in 1938 (primarily a result of the controversy between the oil industry and the government with its international effects) which was worsened by a sharp drop in oil exportations that was only partially offset by an increase in exportations of metallic minerals.[89] The compara-

[89] Banco Nacional de Comercio Exterior, El Comercio Exterior de México (1938-1939), pp. 12 ff. Mexican Minister of Foreign Affairs Eduardo Hay declared to the United States in a note of May, 1940, that the inability of Mexico to meet the

service on her debt was due to general causes and to the campaign against Mexico by the oil companies designed to prevent sale of Mexican oil in foreign countries which resulted in an appreciable limitation of the possibilities of payment by Mexico. See Department of State, Bulletin, II, 468.

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tive exportations in pesos of the metallic minerals of gold, silver, lead, zinc, and copper and of petroleum between 1935-1939 were as follows:[90]

	Above Metals (pesos)	Petroleum (pesos)
1935	388,005,486	153,480,426
1936	339,429,568	152,177,873
1937	467,853,992	162,343,861
1938	474,463,391	79,378,642
1939	529,526,811	82,605,560

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[90] Ibid., 19.

The essentiality of the silver purchase program to Mexico's financial well-being was so evident that it could well be said that silver was the key to Mexico and that the nation purchasing her silver was more important to Mexico than the nation buying her oil.[91]

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[91] William O. Scroggs, "Mexican Oil in World Politics," in Foreign Affairs, An American Quarterly Review, XVII, 175.

Fortunately for Mexico the United States was more interested in Latin-American unity in 1938 than it was in property investments[92] so that its attitude was not that of the Phila-

[92]Thomson, "Friction with Mexico," in Foreign Policy Bulletin, XVII, 4.

delphia Inquirer which declared:[93]

> Could anything be more fantastic? Here we are, loading up on Mexican silver that will never be of any use to us, buying this silver at our own artificially high prices which enrich the Mexican Government and at the same time financing Mexico's seizure of oil lands that belong to American citizens!

[93]McConnell, Mexico at the Bar of Public Opinion, quoting the Philadelphia Inquirer, 196.

New financial support came to Mexico from the United States in an agreement released on August 31, 1942, according to which the United States agreed to purchase all newly-mined silver at forty-five cents an ounce.[94] This meant the purchase of six million ounces of Mexican silver monthly. Included in the accord was the establishment of a forty million dollar (U.S.) stabilization fund for the peso and the lending of thirty million dollars (U.S.) by the Import-Export Bank for the development of highways and roads.[95] Close on the

[94]United States Tariff Commission, Mining and Manufacturing Industries in Mexico, 30.

[95]Manuel Avila Camacho, Un Año de Política Internacional Mexicana 1941-1942. Serie Problemas Nacionales e Interna-

cionales, No. 15, p. 23. Hereafter cited as Avila Camacho, Un Año de Política.

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heels of this agreement came the conclusion of the long tug-of-war over the bonded indebtedness.

A contract was signed on November 2, 1942, between a committee of bankers and the Mexican government to adjust the public debt of Mexico.[96] The agreement provided that bonds

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[96] "Estudio Económico Anual de la America Latina, Año de 1942. Parte I. Repúblicas Latinoamericanos de Norteamérica," in Panamerica Comercial: Revista Mensual de Comercio y Finanzas, XIII, 116.

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not originally issued in dollars should be converted at the rate of 4.85 pesos per dollar or 4.03 dollars per pound sterling to reduce the debt to dollars alone; it was then decided that the principal of the debt, so discovered, should be paid in pesos, one for one, over a period lasting until January 1, 1968, and bearing interest at the average rate of 4.35%.[97]

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[97] Márquez, Inversiones Internacionales en América Latina, 135-137.

Past unpaid interest was cancelled in effect, although a token payment on it was agreed to.[98] The sums involved in the new

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[98] Ibid.

adjustment were as follows:[99]

Direct Debt

Capital owed (U.S. dollars)	230,631,974
Interest, 1914-1922	98,867,941
Interest, 1923-1942	185,016,307
Total (U.S. dollars)	514,516,222

To Be Paid, Agreement 1942

On Capital (pesos)	230,631,974
Interest, 1914-1922	764,394
Interest, 1923-1942	8,973,291
Total (pesos)	240,369,659

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[99] Secretaría de Gobernación, Seis Años de Actividad Nacional, 356.

As Mexican Finance Minister Eduardo Suárez announced to newspapermen, Mexico owed 250,000,000 dollars (U.S.) with total defaulted interest amounting to $270,000,000 for a debt total of $520,000,000 which, by the agreement, was to be retired at an evaluation of approximately 230,000,000 pesos, exclusive of the railway debt.[100]

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[100] "Extent of the Arrangement for Paying Foreign Debt," in Mexico News, III, 1-3.

An agreement on the railroad debt was reached on February 20, 1946, providing for payment as follows:[101]

Railway Debt

Capital owed (U.S. dollars)	233,112,385
Interest, 1914-1922	92,582,486
Interest, 1923-1945	281,909,511
Total (U.S. dollars)	607,604,382

To Be Paid, Agreement 1946

On Capital (pesos)	233,112,385
Interest, 1914-1922	611,711
Interest, 1923-1945	11,247,611
Total (pesos)	244,971,707

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[101] Ibid., 356.

By these two agreements the Mexican bonded debt, direct and guaranteed with interest, was reduced from over 800,000,000 dollars (U.S.) to about $100,000,000. To meet payments on the settlement Mexico raised her budgeted item for debt retirement from 3.7% of the total budget in 1942 to 13.5% in 1943.[102]

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[102] "Estudio Económico Anual de la América Latina, Año de 1942. Parte I. Repúblicas Latinoamericanas de Norteamérica," in Panamerica Comercial: Revista Mensual de Comercio y Finanzas, XIII, 118.

After 1941 Mexican governmental finances continued to move toward a system of income less dependent on exterior sources and the importance of taxes on the extractive industries declined as those on Mexican industries and income rose,[103] extractive

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[103] Secretaría de Gobernación, Seis Años de Actividad Nacional, 360.

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taxes having provided 37% of the total governmental income in 1941 but amounting to only 27% in 1945.[104] Even so, as late

[104] Ibid., 259.

as 1937 the Mexican oil industry paid about one seventh of the total tax burden[105] and tax income derived from the oil in-

[105] Thomson, "Mexico Nationalizes Oil," in Foreign Policy Bulletin, XVII, 4.

dustry continued to rise as a separate item. The whole amount of imposts collected in 1938 from the oil industry was 41,160,000 pesos while in 1940 it was eighty-seven million pesos and in 1945 was ninety-nine million without counting 34,300,000 pesos set aside to pay for the expropriation.[106]

[106] Conferencia de Mesa Redonda, El Problema Nacional de la Industria Petrolera, Ciudad Madero, Octubre de 1945, p. 31.

By 1945 Mexico's outstanding national debt in dollar bonds was 245,211,901 dollars (U.S.), or $271,595,538 including state, municipal, and other obligations.[107] Loans were

[107] Foreign Bondholders Protective Council, Inc., Annual Report 1945, pp. 114-115.

made to Mexico in 1944 and 1945 by the Export-Import Bank which totaled 96,847,619 dollars (U.S.),[108] while the total

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[108] Ibid., 122. The price of silver in September, 1945, was increased to 71.11 cents an ounce. See United States Tariff Commission, Mining and Manufacturing Industries in Mexico, 30.

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internal bonded debt stood December 31, 1945, at about 165,000,000 dollars (U.S.) or 800,000,000 pesos.[109]

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[109] "National Economy of Mexico," in Commercial Pan America, a Monthly Review of Commerce and Finance, XV, 12.

CHAPTER VIII

THE OIL INDUSTRY AND MEXICAN POLITICS, 1900-1919.

The oil industry of Mexico, so closely related to every major Mexican political and economic problem in the early twentieth century, was a monopoly in the hands of the Waters-Pierce Oil Company prior to 1901.[1] Waters-Pierce, a distributing firm, did not produce oil in Mexico but imported it, paying an impost on the oil brought in.[2] Under that system kerosene in Mexico sold for eight pesos a case or forty cents a gallon.[3] The monopoly was broken by the development in Mexico of oil-producing properties.

[1] Lewis, *America's Stake in International Investments*, 221.

[2] *Ibid*.

[3] *Investigation of Mexican Affairs*, II, 2222.

The process began in 1889 when Weetman Pearson, a prominent British engineer, was invited to Mexico to plan the cutting of the Mexican Grand Canal; Pearson stayed on in Mexico to reconstruct the Tehuantepec Railway and to rebuild the port

at Vera Cruz.[4] Becoming interested in the possibilities of

[4] Evelyn Waugh, Robbery Under Law: The Mexican Object Lesson, 92. Hereafter cited as Waugh, Robbery Under Law. See also Francisco Bulnes, The Whole Truth about Mexico: President Wilson's Responsibility, 24. Hereafter cited as Bulnes, The Whole Truth about Mexico.

Mexico as an oil producing region, Pearson hired the engineer who had drilled Spindle Top in Texas and began exploring for oil in Mexico in the Capoacán area.[5] By 1906 Pearson had

[5] Waugh, Robbery Under Law, 94.

bought six hundred thousand acres of oil land and had leased two or three hundred thousand more.[6] In 1906 Díaz granted

[6] Ibid.

Pearson a concession which gave him a monopoly right to explore the national lands in several states for oil and the privilege of not paying imposts on goods imported for the development of the industry.[7] Pearson's company, El Águila,

[7] Gobierno de México, El Petróleo de México, 566-567. The contract was canceled in January, 1935. Ibid.

was organized in 1900 and reorganized in 1908,[8] and on its

[8] Díaz Dufoo, La Cuestión del Petróleo, 322.

board of directors were lawyers and politicians close to Díaz, including Limantour, Díaz's finance minister, and Díaz's son.[9]

[9] Howland (ed.), Survey of American Foreign Relations, 126. According to S. G. Hopkins, agent for the Madero Party in Washington during the revolution of 1910, Díaz's son received two hundred shares of El Águila's stock worth a thousand dollars a share and bearing 8% interest. See Investigation of Mexican Affairs, II, 2549.

The oil market being greater than El Águila's production at that date, the company imported in June, 1909, four hundred thousand barrels from Texas to supplement its Mexican production of three thousand barrels a day.[10] The competition with

[10] Waugh, Robbery Under Law, 95.

Waters-Pierce drove the price of kerosene down to 2.75 pesos per case (ten gallons).[11] Waters-Pierce could not meet the

[11] Investigation of Mexican Affairs, II, 2222.

competition with the impost levied on imported oil and requested that the tax be removed but Díaz refused.[12] In the

[12]Lewis, America's Stake in International Investments, 222.

meanwhile El Aguila had brought in the great oil gushers which converted Mexico into a major oil producing state. The year was 1910.[13]

[13]Waugh, Robbery Under Law, 95-96.

The development of the oil industry in Texas and the similarity of its coastal area to that of northern Mexico had interested others in the possibilities of finding oil in Mexico. The Huasteca Petroleum Company, a subsidiary of the Mexican Petroleum Company of Delaware, was formed in February, 1907, a property of Edward L. Doheny.[14] Huasteca brought in

[14]W. J. Archer (ed.), Mexican Petroleum, Description of Properties of the Pan American Petroleum and Transport Company and Principal Subsidiaries, Mexican Petroleum California (California), Huasteca Petroleum Company, Mexican Petroleum Company, Limited, of Delaware, Mexican Petroleum Corporation, The Caloric Company, Pan American Petroleum Company, Mexican Petroleum Corporation of Louisiana, Incorporated, British Mexican Petroleum Company, Limited, and Other Data, 55. Hereafter cited as Archer (ed.), Mexican Petroleum. The Mexican Petroleum Company of Delaware was the parent holding corporation for Doheny's original company, Mexican Petroleum Company of California, Huasteca Petroleum Company, Tamiahua and Tuxpam Petroleum Companies, and Pan American Petroleum Transportation Company. See Investigation of Mexican Affairs, I, 226-229.

its famous gusher Casiano No. 7 in September, 1910, a well

which produced sixty thousand barrels a day.[15] The Huasteca properties were owned in fee simple and consequently concessions were not involved in their exploitation, but Díaz requested Doheny never to sell his holdings to a monopoly like Standard Oil without first notifying the Mexican government so that it could purchase the property and prevent its falling into the hands of a strong foreign organization.[16]

[15] Investigation of Mexican Affairs, I, 242.

[16] Ibid., I, 219.

From 1901 to 1911 about four million cubic meters (25,200,000 barrels) of oil were exported from Mexico without the payment of a penny in taxes,[17] but it was not until the astounding gushers of El Águila and Huasteca attracted world-wide attention that literally hundreds of oil companies were organized to exploit the Mexican subsoil.[18] But, as already

[17] Secretaría de Educación Pública, Sobre el Petróleo de México: Conferencias, 35.

[18] Some 447 oil companies existed in Mexico in 1919 of which 163 had produced oil but only twenty-four in exportable quantities. See Díaz Dufoo, La Cuestión del Petróleo, 323.

has been indicated, ownership of the subsoil was a moot question in Mexico. Further, in 1910 occurred the first rumblings of the Mexican revolution with its agrarian, xenophobic, and mineral thesis.

Among the numerous companies organized to exploit Mexican oil was the Transcontinental which was granted a contract by the Díaz government giving it the right to import oil machinery free for one year. In one year Transcontinental imported five hundred thousand pesos of materials, or five times the amount the contract required to be expended in five years. The excess was sold to two other companies organized by the same capital group.[19]

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[19] José López-Portillo, "El Aspecto Técnico en el Conflicto Petróleo," in Revista de Industria, I, 10. Transcontinental was acquired by Standard Oil of New Jersey in 1917. Ibid. Standard Oil of New Jersey seems to have acquired control of the Doheny interests in 1916 with the organization of the Pan American Petroleum and Transport Company. See Winkler, Investments of United States Capital in Latin America, 232.

Standard Oil of California controlled the Richmond Petroleum Company of Mexico and California Standard Oil Company of Mexico, while Standard Oil of New York owned properties in Mexico through a subsidiary, General Petroleum Corporation of California.[20] Compañía Petrolera del Agwi, S.A. was organized

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[20] Winkler, Investments of United States Capital in Latin America, 235-236.

in Mexico in 1921 with a capitalization of 6,250 shares at one hundred dollars each.[21]

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[21] Ibid.

Mexican Gulf Oil Company was organized in Delaware in 1912 while the New England Fuel Oil Company was organized in 1911. The Texas Company of Mexico, S.A., was organized in Mexico in 1917, with a capitalization of 53,000 shares valued at one hundred pesos each; and in 1916 Pan American Petroleum and Transport Company of Delaware acquired control of the whole Doheny group.[22]

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[22] Ibid., 230-232.

The Penn-Mexican Fuel Company of Delaware was organized in 1912 with a capital of one hundred thousand dollars and the Continental Mexican Petroleum Company was established in 1911 at an equal capitalization.[23] The Atlantic Gulf Oil

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[23] Winkler, Investments of United States Capital in Latin America, 227, 235.

Corporation was set up in Virginia in 1919, with a capital of two hundred thousand dollars; and Mexican Seaboard Oil Company was established in the same year in Delaware.[24] Those were

[24] Ibid., 226, 235.

the earliest among the American oil companies established in Mexico and with El Águila formed the chief groups exploiting oil there.

The major oil groups operating before 1911 in Mexico, those of Pierce, Doheny, Pearson, found their interests in conflict, with the Díaz government acting with open favoritism toward the Pearson interests which interlocked with the National Railways of Mexico. All the directors of El Águila were also directors of the National Railways, in which Henry Clay Pierce of Waters-Pierce Oil was the largest individual security holder.[25] Pierce, chairman of the board of directors of

[25] Investigation of Mexican Affairs, II, 2553-2555.

the Mexican Central Railway for many years, saw it absorbed by the National Railways and feared that the technique of operation which Pearson applied to the Tehuantepec Railway (which resulted in costs one third above normal) would also be applied to the National Railways.[26] Further, Pierce was

[26] Ibid., II, 2555-2560.

involved with Standard Oil Company in a bitter struggle to

retain control of Waters-Pierce Oil Company in the United States, and two or three years before the outbreak of revolution in Mexico Pierce had begun to move to shut Standard Oil out of Mexico.[27]

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[27] Ibid., II, 2568.

Pierce, in an effort to discredit Pearson, hired agents to secure evidence of graft between Díaz and Pearson and also to gather evidence against Standard Oil which Pierce declared controlled Pearson's interests.[28] In addition Pierce and Gustavo

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[28] Ibid., II, 2525 ff.

Madero had formulated a careful plan by which they hoped to gain control of the National Railways and reform the directorate of it by ousting the Díaz-Pearson group.[29]

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[29] Ibid., II, 2557.

It was not surprising under these conditions that Francisco Madero found support for his movement in opposition to Díaz from the Waters-Pierce Oil Company. According to one testimony, the Madero administration, among its first acts, issued a check to Waters-Pierce for $685,000 (U.S.) in repayment of money advanced to the Madero's to carry on the revolution against Díaz.[30] Díaz's favoritism toward El Águila

[30] Investigation of Mexican Affairs, II, 2222-2223. Ambassador Wilson later declared that an "American oil company" financed to some extent the Madero campaign against Díaz, according to Secret Service reports on file in the Department of Justice. See Henry Lane Wilson, Diplomatic Episodes in Mexico, Belgium, and Chile, 307.

resulted in the American companies' lending support to the political opposition to Díaz in 1910.[31]

[31] Bach y De la Peña, México y Su Petróleo, 12.

The position of Díaz was not strengthened by a certain degree of coolness which had chilled Mexican-American diplomatic relations. Díaz's favor to English capitalists along with his reluctance to renew the lease which permitted the United States to use Magdalena Bay in Lower California for a naval base had diminished much of the esteem which Washington had for him.[32] Moveover Díaz refused to cooperate with Ameri-

[32] William Franklin Sands in collaboration with Joseph M. Lalley, Our Jungle Diplomacy, 146.

can policy in Central America in 1909 and also granted a large oil concession to Pearson's interests.[33]

[33] Obregón, México y Los Estados Unidos ante el Derecho Internacional, 94.

Japanese diplomatic moves in Mexico had aroused American curiosity. According to one declaration, Díaz's minister of Foreign Affairs, Limantour, while in Paris in 1910, had negotiated secret agreements by which Japanese companies had been leased port-stations on Mexico's west coast.[34] The secret

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[34] University of Chicago, Norman Wait Harris Memorial Foundation, Third Institute June 29 to July 16, 1926, mimeograph, 123.

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treaty had been stolen and revealed to the United States which subsequently was cool to Díaz during the Madero revolt.[35]

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[35] Ibid. José Vasconcelos declared the story to be fiction. Ibid., 124.

Sufficient credence attached to the story of Japanese naval bases in Mexico that in 1911 President Taft found it necessary to deny to the assembled ministers of Venezuela, Ecuador, Colombia, and Costa Rica that complications with Japan were going to force American intervention in Mexico.[36] According to

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[36] Foreign Relations 1911, pp. 459-460.

George C. Carothers, American consular agent in Mexico from 1900 to 1913 and special representative thereafter for the State Department, a Mexican general who was commander of Ma-

zatlán under Díaz knew of a secret agreement between Japan and Díaz concerning the establishment of a Japanese naval station in Lower California.[37] That Japan was interested in Mexican

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[37] Investigation of Mexican Affairs, I, 1778.

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affairs was lent support by the fact that Villa himself declared to Carothers February 5, 1915, that a Japanese naval commander in Mexico City had declared Japan was preparing for war with the United States; Carothers himself saw in northern Mexico pamphlets in both Japanese and Spanish urging Mexico to resist the United States and to count on Japanese aid.[38]

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[38] Ibid., I, 1777-1778. On the attitude of Taft toward the Díaz government, particularly on the mobilization of United States military forces in March, 1911, see Luis Manuel Rojas, La Culpa de Henry Lane Wilson en el Gran Desastre de México, I, 290 ff. Hereafter cited as Rojas, La Culpa de Henry Lane Wilson.

At any rate the Madero revolt was successful and Díaz was overthrown.

The platform of Madero's Progressive Constitutional Party in August, 1911, declared in regard to monopolies that government policy ought:[39]

> To assist in the development of the natural resources; to see that taxes are impartially imposed; to abolish the contract system and to combat all monopolies and special privileges, and above all to see that the public funds are used for the general good of the nation.

[39] Foreign Relations 1911, p. 515.

The Madero program in this and other aspects was not unmixedly popular and as early as October, 1911, the ambassador of the United States to Mexico, Henry Lane Wilson, reported to his government that he had confidential information about a counter-revolution involving General Huerta.[40] By January,

[40] Ibid., 519.

1912, Ambassador Wilson reported to the American government that:[41]

> The two things which are most affecting public opinion at this time--and especially foreign financial and commercial public opinion--and increasing the distrust felt toward the Madero administration are:
> First. The failure to enforce the law and the spread of lawlessness and license....
> Second. The dangerous tendencies toward impractical and absurd economic measures sanctioned by the government....

[41] Ibid., 714. Ambassador Wilson distinctly varied in his attitude from that of Secretary of State Seward who declared to Napoleon III, in response to the latter's statement that French intervention was justified by anarchy in Mexico, "We cannot deny that all the anarchy in Mexico ... was necessarily, and even wisely, endured in the attempts to lay sure foundations of broad republican liberty." See Turlington, Mexico and Her Foreign Creditors, 2.

That Ambassador Wilson's attitude was the result of a tie between himself; his brother, Senator John M. Wilson;

Richard Ballinger, President Taft's secretary of the Interior; and the Guggenheim interests in American Smelting and Refining Company, which had large investments in Mexico competing directly with the Madero family properties,[42] was not certain,

[42] Waugh, Robbery Under Law, 138. See also Strode, Timeless Mexico, 232. On Ambassador Wilson's part in the downfall of Madero, see Rojas, La Culpa de Henry Lane Wilson. According to Bulnes, The Whole Truth about Mexico, 122-124, the Guggenheim interests almost completely monopolized the smelting industry, controlling plants at Monterey, San Luis Potosí, Aguascalientes, and Velardena. Bulnes also declared that Ambassador Wilson was the chief protector of the Tlahualilo Company, exploiting the Laguna cotton-producing area.

but the fact that he was opposed to Madero was known.

In the meanwhile the oil industry in Mexico continued its flourishing development. In 1911 an American mining engineer in Mexico estimated that American investments alone in the oil business in Mexico amounted to fifteen million dollars.[43] El

[43] Lewis, America's Stake in International Investments, 614.

Águila paid an 8% dividend on preferred stock at the end of June, 1911, as did Huasteca. In the year ending June, 1912, El Águila earned a profit of $4,264,742 (U.S.) while Huasteca earned $3,076,374 (U.S.).[44] Doheny's property increased in

[44] Urbina, La Cuestión del Petróleo, 24.

value after the revolution led by Madero, primarily because of an agreement between Doheny and Standard Oil.[45] The arrange-

[45] Investigation of Mexican Affairs, II, 2568-2569. The testimony was by S. G. Hopkins and was concurred in by Senator Fall.

ment was despite Doheny's promise to Díaz never to sell out his interest to Standard Oil or any other monopoly without first informing the government so that it could purchase the property to prevent its falling into the hands of strong foreign organizations.[46] After 1910 Doheny's interests expanded

[46] Ibid., I, 226.

production and in 1914 Doheny could report that "notwithstanding the four years of changing governmental conditions in Mexico, no great loss or injury has been suffered by your companies because of the struggle for supremacy between the opposing parties in that Republic."[47] In fact, from 1911 to 1921 the Ca-

[47] Ibid., I, 239-240.

siano field produced eighty million barrels and Cerro Azul from 1910 to 1921 seventy million barrels.[48]

[48] Archer (ed.), Mexican Petroleum, 36.

Ambassador Wilson, in February, 1912, still felt that the Madero government was in need of guidance and notified the American Secretary of State that he had endeavored to get leading members of the Catholic Party, the old regime, and commercial elements of the city "to make some demonstration of a public character, coupled with a tender of sacrifice and support as might have a moral effect on the country at large."[49] The

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[49] Foreign Relations 1912, p. 723.

Ambassador added that he felt such a movement was under way. In reply to a request from Ambassador Wilson, President Madero informed him in February, 1912, that troops were restoring order in Mexico and that he would give his immediate attention to the situation in the oil district by sending a gunboat to Tuxpam.[50] The Ambassador apparently had little confidence in

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[50] Ibid., 730.

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the ability of the Madero government to survive, for he reported to the State Department, May 15, 1912, that economically Mexico was declining, with its securities dropping in value and coal mines, smelters, and factories closed. He felt that the financial crisis sure to follow would imperil the existence of the Madero government.[51]

[51] Ibid., 811.

By July, 1912, Secretary of State Knox was sufficiently impressed by Ambassador Wilson's reports that he requested the naval department to despatch ships to both the east and west coasts of Mexico in order to "increase the prestige with which Mexicans would regard the United States," a "really formidable" vessel being urged for the Gulf coast.[52] The opposition to

[52] Ibid., 817.

Madero in northern Mexico so strongly desired intervention by the United States that the American consul at Juárez reported to the Secretary of State in July, 1912, that it might do any thing to provoke it.[53] The Madero government in either case

[53] Ibid., 822.

found itself in a dilemma vis-a-vis the United States government, even though in 1912 the Convention of the American Federation of Labor resolved that the United States should not intervene in the Mexican revolution against peonage and the system of land tenure.[54] But the head of one of the largest

[54] Hammond, "Mexican Labor and World Affairs," in S. D.

Meyers (ed.), Mexico and the United States, Proceedings of the Fifth Annual Conference Institute of Public Affairs Auspices Carnegie Endowment for International Peace, 1938, p. 92.

American land-holding interests was endeavoring actively to bring on intervention in Mexico.[55]

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[55] Wilson, Diplomatic Episodes in Mexico, Belgium, and Chile, 307.

Ambassador Wilson reported in August, 1912, that:[56]

> The President's attention should, I believe, be called to the growing anti-American spirit of the Madero administration which not only shows a decided preference for European markets in all lines but is harassing and discriminating against American interests ... and manifested recently in the lock-out of the American employees of the railways, in the persecution of the Associated Press and the one American newspaper in Mexico ... in the discrimination and almost confiscatory tax placed on the oil products at Tampico.... The Embassy will do all it can to prevent these unjust acts, but it is respectfully suggested that a positive stand in all Mexican matters is advisable, in view of the services we have rendered to Mexico and our patience with the Government.

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[56] Foreign Relations 1912, p. 827.

The same month the Ambassador further advised the Secretary of State that:[57]

> It must be understood ... that this administration while nominally pro-American and suffering to some extent in public opinion because of its supposed pro-Americanism, is really conducting a campaign against American interests in Mexico, and this campaign seems aimed to make the members of the Madero family and the personal and political adherents thereof the beneficiaries of American loss. I

> know of no American interests in this country which are being attacked by the Executive or the courts which were not legitimately and honestly acquired but I foresee confiscation, harassment, and dislodgements through suborned judicial decrees of many of our important interests, unless this Government is taught in due season that every American and every American interest in Mexico expects and must receive the same measure of justice that a Mexican or Mexican interest would receive in the United States.

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[57] Ibid., 831.

President Taft accordingly in September, 1912, called the Mexican Ambassador to the White House and declared that the United States had a right to expect a hearty consideration for all American interests in Mexico because of the friendliness of the United States toward Madero and its favorable action in regard to the exportation of arms and munitions which, as Taft indicated, could by a different enforcement of law affect the very existence of the Madero government. President Taft further declared that a worsening of the situation would result in the calling of Congress to consult with it about dealing with the Mexican situation.[58]

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[58] Ibid., 824.

Also in September, 1912, the American Consul at Nuevo Laredo notified the Secretary of State that a new uprising against Madero was feared, and might involve the whole Mexican army of the north under General Huerta,[59] previously referred

[59] Ibid., 841.

to by Ambassador Wilson in October, 1911. Still in September, 1912, Ambassador Wilson sent the Mexican Minister of Foreign Affairs the following note:[60]

> The Government of the United States desires to make it known to the present administration in Mexico that to its surprise and misgiving it has been informed that certain men ... seemingly overcome by greed and inimical to American interests on account of their nationality, are ... persecuting and preying upon these interests at every favorable opportunity. The Associated Press ... has been repeatedly hampered by unnecessary and irksome restrictions for which the administration cannot be held entirely unresponsible ... American oil interests in the vicinity of Tampico proffer evidence that they are taxed almost beyond endurance ... The Government of the United States must insist that this predatory prosecution, amounting practically to confiscation, shall cease forthwith and it expects immediate assurance from the Mexican administration that it will promptly bring this about.

[60] Foreign Relations 1912, p. 844.

A threat of intervention closed the note.

Under those circumstances it was not surprising that Madero should find the election in November, 1912, of Woodrow Wilson as President of the United States a delightful thing.[61]

[61] Ibid., 870.

Replying to the American note attacking the Mexican policy in

regard to taxes on the oil industry, Madero declared:[62]

> The Mexican Government has not decreed any taxes on oil out of an anti-American sentiment. In order to meet its expenses, it has to tax such national sources of wealth as can stand taxation and oil ... did not pay any tax. The contracts entered into with several companies exempt them from all sorts of taxes, excepting the one paid by means of revenue stamps. Before the enactment of the stamp tax of 20¢ per ton, which is the equivalent of three Mexican cents per barrel ... a meeting was held with the representatives of the various companies engaged in the oil industry, and the majority accepted it without protest.

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[62] Ibid., 875.

Meantime conditions in Mexico became less and less satisfactory to Ambassador Wilson's view. His personal opinion of Madero was demonstrated on February 15, 1913, when he declared after reading Madero's note to the Cuban government that Madero was a fool and ought to be declared incompetent. Wilson made this declaration before the Spanish, German, and English ministers, striking the table and declaring,"I am going to have order."[63] Wilson declared on January 7, 1913, that the situa-

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[63] Alfonso Taracena, En El Vertigo de la Revolucion Mexicana, 145.

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tion in Mexico was hopeless and a revolution likely at any moment with the Madero government unable to borrow money abroad since both the French and German ministers had warned their governments of Madero's position of insecurity.[64] The

[64] Foreign Relations 1913, pp. 692-693.

Ambassador reported to the Secretary of State on February 4, 1913, that Madero's New Year's address was revealing of the government's conception of its obligation to foreigners "who have come hither with their energy and capital and have given to this country whatever of progress it has achieved and whatever of prestige it enjoys throughout the world."[65]

[65] Ibid., 699.

The predicted revolution began in February, 1913, when fighting broke out in Mexico City between Madero's forces and those of General Félix Díaz, endangering the lives and property of twenty-five thousand foreigners, according to Ambassador Wilson, who requested his government to send him drastic instructions, perhaps menacing in tone, which he could deliver to Madero and the revolutionaries and with which he thought he could put a stop to the hostilities.[66] The Secretary of

[66] Ibid., 704.

State replied to Ambassador Wilson that his request, if acceded to, might alter the balance of military supremacy in Mexico City, a thing for which the American government did not

want to be responsible.[67] Governor Colquitt of Texas request-

[67] Ibid., 706.

ed United States intervention in Mexico, and Ambassador Wilson on February 15, 1913, along with a part of the diplomatic corps, notified Madero that he should resign.[68] Later the

[68] Ibid., 705.

same day, Ambassador Wilson returned to the National Palace especially to see General Huerta, in command of Madero defense forces, and was prevented from seeing him by Madero, whom Wilson again interviewed.[69] The result of that meeting was a

[69] Ibid., 712-713.

telegram sent to Washington at midnight by Madero informing President Taft that Ambassador Wilson had threatened to have Marines landed in Mexico.[70] By February 17, 1913, General

[70] Ibid., 714.

Huerta notified Ambassador Wilson that action to remove Madero was imminent and February 18, 1913, Ambassador Wilson notified Washington that Huerta had arrested Madero and Piño Suárez,

the vice-president.[71] Generals Huerta and Díaz were then in-

[71] Foreign Relations 1913, pp. 718-720.

vited to the American Embassy where Ambassador Wilson announced that after much difficulty the two had agreed that Huerta should become provisional president with a cabinet named by Díaz who ultimately should become permanent president.[72] On

[72] Ibid., 720-721. The so-called "Pacto de la Embajada." See Obregón, México y Los Estados Unidos, 95. Huerta's cabinet included one member who was attorney for a score of American corporations, according to Strode, Timeless Mexico, 236.

February 19, 1913, Ambassador Wilson notified Washington that his assumption of responsibility in arranging many important matters had done no harm and he thought had benefited Americans in Mexico greatly, leaving the United States in a stronger position than ever in that country.[73] That Ambassador Wilson

[73] Foreign Relations 1913, p. 723.

assumed great responsibility was beyond question.

The recognition of General Huerta by foreign powers was delayed, during which time Madero and Piño Suárez were murdered. When the Secretary of the British Legation told Ambassador Wilson that he thought Britain would not recognize the

Huerta government because of the murder, Ambassador Wilson notified the Secretary of State that non-recognition would be a great mistake, endangering the Huerta government on which the safety of all foreigners depended.[74] Furthermore, the Ambassa-

[74] Ibid., 736.

dor notified the Secretary of State that Huerta's minister of Foreign Affairs, De la Barra, had agreed that all the Ambassador's requests in regard to claims, border disturbances, and Colorado River water should be attended to and complied with, excepting the Chamizal question.[75] Ambassador Wilson declared

[75] Ibid., 737.

to the Secretary of State again on February 26, 1913, that Huerta's government would collapse if not maintained and the result would be chaos with irresistible pressure for intervention following. Convinced of this, the Ambassador frankly declared that he was aiding Huerta's government to establish itself and to procure the submission of the whole republic.[76]

[76] Ibid., 742.

Not all American diplomatic officials in Mexico agreed with Ambassador Wilson's whole-hearted support for Huerta,

apparently, for the Ambassador complained that some consuls sympathized with the rebels and did not work to secure local submission to federal authority. Also, some of the consuls evidently notified the State Department that their secret reports to the Ambassador on rebel activities were passed on to General Huerta, for Secretary of State Bryan requested that Ambassador Wilson desist from the practice.[77] Previously,

[77] Ibid., 763.

March 4, 1913, Ambassador Wilson had instructed the Consul at Saltillo to inform Venustiano Carranza that he was rebelling against a legally constituted government when he opposed Huerta and that, in the embassy's opinion, his defeat by Huerta was inevitable.[78] Carranza, on receiving that information, retort-

[78] Ibid., 767.

ed that the American embassy was largely at fault for conditions in Mexico and that he cared to receive no further communication from it.[79]

[79] Ibid. Interestingly enough, Ambassador Wilson interpreted the Carranzista movement as a part of what he regarded as a traditional separatist movement in northern Mexico which desired union with the United States. See ibid., 774.

Ambassador Wilson continued to urge the recognition of Huerta by the United States. Britain already had recognized Huerta's government which became friendly to Pearson's oil interests and received loans from him.[80] The British aided, according to Doheny, in the sale of bonds for the Huerta government.[81] The Ambassador felt that the United States should help to maintain a government able to guarantee protection to life, property, peace, and progress without being especially particular as to whether its character was in harmony with American ideas of genuine democratic institutions.[82] That interesting view was followed in April, 1913, by the Ambassador's suggestion that the United States government aid Mexico to secure a loan so that Huerta could sustain himself,[83] and by the Ambassador's resignation on August 4, 1913.[84] Ambassa-

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[80] Benjamin T. Brooks, Peace, Plenty, and Petroleum, 149.

[81] Investigation of Mexican Affairs, I, 284.

[82] Foreign Relations 1913, p. 776.

[83] Ibid., 791.

[84] Ibid., 817.

dor Wilson was visited between March and August, 1913, by William Bayard Hale who presumably was to report secretly to President Wilson on his findings and who, according to the Ambassador, fell under the influence of persons opposed to the embassy and General Huerta "for largely personal reasons."[85]

[85] Wilson, Diplomatic Episodes in Mexico, Beligum, and Chile, 306.

At any rate, Ambassador Wilson was relieved of his post.

President Wilson named no successor to the ambassadorial post but sent the former Governor of Minnesota, Lind, to Mexico as a "personal representative" to propose that 1) an armistice between all factions be declared; 2) free elections be guaranteed and held as soon as possible; 3) General Huerta promise not to be a candidate for the permanent presidency; and 4) all parties agree to abide by the election.[86] Governor

[86] Foreign Relations 1913, p. 822.

Lind discovered that Huerta was controlled by Pearson and that Huerta was sustained in his position by the support of European governments.[87] Oil barons in both England and the United

[87] Josephus Daniels, The Wilson Era: Years of Peace--1910-1917, p. 182. Hereafter cited as Daniels, The Wilson Era.

States wished Huerta to be recognized, according to Daniels, preferring a pliant president to one devoted to the protection of the Mexican subsoil wealth.[88] Despite protests from a dele-

[88] Ibid., 181. Weetman Pearson admittedly lent money to Huerta, according to Brooks, Peace, Plenty, and Petroleum, 149. On the other hand, Edward L. Doheny declared that:

> So far as we know, every American corporation doing business in Mexico extended sympathy or aid, or both--and we extended both--to Carranza from the time that President Wilson turned his back on Huerta.

See Investigation of Mexican Affairs, I, 279.

gation of American citizens in Mexico, Secretary of the Navy Daniels withdrew all American naval vessels from the Rio Panuco in the oil zone near Tampico during that period.[89]

[89] Daniels, The Wilson Era, 185.

The failure of Lind's mission caused President Wilson to adopt a policy of "watchful waiting" in regard to Mexican affairs, during which time no particular group in Mexico was granted American recognition--a policy which Wilson requested other countries to adopt also.

Ambassador to Britain Walter H. Page reported to Washing-

ton October 21, 1913, that the reaction of Sir Edward Grey to the Wilson policy was friendly after Page explained that the purpose of the policy was to make financial interests secondary to moral interests and never to intervene for mere capitalistic reasons no matter how urgently they might press.[90] Grey informed the American government that Huerta's boast that London, along with Paris and Berlin, would aid him against Washington was false and passed the denial and the rumor on to Washington.[91]

[90] Foreign Relations 1913, p. 846.

[91] Ibid., 852.

The American Charge d'affairs in Russia reported that the Russian Foreign Minister had replied that the only satisfactory solution to the Mexican problem was annexation by the United States, which action Russia would view with approval.[92]

[92] Ibid., 852.

A similar solution was recommended by a former American Consul General in Mexico City who declared that a permanent settlement of the Mexican question depended on economic control by the United States.[93]

[93] Investigation of Mexican Affairs, II, 2873.

The Carranza or Constitutionalist movement of northern Mexico continued to threaten Huerta. As disorder in Mexico was ominous for the oil wells in the Tampico region, some American military advisers counselled war against Mexico in 1914, some apparently desiring to annex all of the country.[94] Difficul-

[94] Daniels, The Wilson Era, 192.

ties with Huerta multiplied, and in the spring of 1914 the United States invaded Mexico and seized Vera Cruz. The only purpose of that invasion, according to Secretary Daniels, was to help Mexicans escape from Huerta.[95] What the action signi-

[95] Ibid., 196.

fied was not only the use of force to repair certain specific indignities to the United States, as Secretary of State Bryan instructed Consul Carothers at Juárez to inform Carranza,[96]

[96] Mexican Foreign Office, Diplomatic Dealings of the Constitutionalist Revolution of Mexico, 85.

but in particular the necessity of stopping a cargo of arms

being delivered by a German ship to Huerta.[97]

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[97] Luis Lara Pardo, Matchs de Dictadores: Wilson contra Huerta, Carranza contra Wilson, 100. Lara Pardo was an agent for Huerta in New York.

A note from Admiral Fletcher, April 21, 1914, to the Mexican commander in Vera Cruz, General Mass, informed the Mexican that the United States fleet was going to seize the customs in order to prevent the delivery of arms.[98] Wilson's

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[98] Ibid., 104.

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concern that Carranza be notified of the action indicated that the period of "watchful waiting" was about over. Carranza not only was informed of the action but was told that Wilson would not ask for a declaration of war against Mexico. Both Bryan and Wilson congratulated the Constitutionalists on their attitude of neutrality in the controversy which they considered a "very proper attitude."[99] Seemingly American recognition

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[99] Mexican Foreign Office, Diplomatic Dealings of the Constitutionalist Revolution of Mexico, 85.

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was veering toward Carranza but it was delayed by the bitterness which followed the battle at Vera Cruz.

Carranza continued to consolidate his power and in December, 1914, the Plan de Guadalupe was amended by a decree

which declared that Carranza would continue as Premier Jefe until the enemy was conquered and peace restored, with the Premier Jefe to issue all laws and depositions to give effect to the economic, political, and social necessities of the country and to make the reforms public opinion demanded--redistribution of land, a new tax system, better conditions for peons and workers, and revised laws concerning mines, petroleum, waters, forests, and other natural resources.[100] A year later,

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[100] Palavicini, Historia de la Constitución de 1917: Génesis, Intergración del Congreso, Debates Completos, Texto Íntegro Original y Reformas Vigentes, I, 17-18.

November, 1915, Carranza issued his "Carranza Doctrine" which declared that privileged classes, native or foreign, should disappear and that the revolution was tied by unbreakable conviction to the view that the best approach to problems was collectivistic, not national but continental or even universal.[101]

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[101] Francisco L. Urquizo, Don Venustiano Carranza, El Hombre, El Político, El Caudillo, 67-68. The statement by Carranza was hailed by a professor in the University of Brussels as the first by a chief of state fostering the view that humanity was a single nationality and that all classes and races should be a fraternity. See Antonio Manero, México y la Solidaridad Americana: La Doctrina Carranza, 212-213.

During 1915 United States policy oscillated between Carranza and Villa as possible recipients of recognition, and Wilson's special representative, Paul Fuller, recommended sup-

port for Villa rather than Carranza. An American agent was attached to Villa's army for a time and Villa entertained an American General in Juárez and was himself received with full military honors in El Paso.[102] However, the United States ex-

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[102] Marcelo, Memorandum on the Relations of the United States with Mexico from the Mexican Viewpoint: 1910-1925, typescript, 33-38.

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tended de facto recognition to Carranza's Constitutionalists in 1915, probably because President Wilson regarded the Mexican revolution as having for its purpose the ousting from the country of men who ignored the Constitution of Mexico.[103]

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[103] Affairs in Mexico, 14.

Nevertheless, in June, 1915, Wilson warned Mexico that unless the rival factions in Mexico united to set up a government, it was the duty of the United States to inform them that the United States would feel forced to decide how to help Mexico save herself.[104]

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[104] Ibid., 15.

Secretary of State Lansing soon received reports of Carranza's radical attitude toward subsoil wealth, and, in January, 1916, wired Special Agent Silliman in Mexico to inquire

concerning the rumor that Carranza intended to nationalize petroleum. Silliman replied that Carranza himself stated that no such decree was contemplated.[105] Further to complicate the

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[105] Dunn, The Diplomatic Protection of Americans in Mexico, 338.

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situation came the Villa raid on Columbus, New Mexico, which aroused such excitement in the United States that intervention of some sort in Mexico was again inevitable. The American government, March 9, 1916, notified the Constitutionalist Agent in Washington that it was the opinion of the United States that the raid was made purposely to provoke intervention and that American forces invading Mexico did so because of public excitement and because no Constitutionalist forces were nearby; Carranza was further notified that United States forces would withdraw as Constitutionalist forces approached.[106] Car-

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[106] Mexican Foreign Office, Diplomatic Dealings of the Constitutionalist Revolution of Mexico, 134-135.

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ranza, nevertheless, distrusted American sincerity, and on March 11, 1916, notified General Manuel M. Dieguez at Empalm, Sonora, and General Agustín Millan at Jalapa, Vera Cruz, to be ready for a declaration of war with the United States. He recommended the preparation of dynamite hand grenades and readiness to destroy railroads.[107] Although Carranza added

[107] Ibid., 141-142.

that he was still trying to avoid a break with the United States, as late as May 8, 1916, he repeated his orders for the generals to be ready for any emergency.[108] In the interim Car-

[108] Ibid., 184.

ranza despatched the following note to President Wilson:[109]

> The Mexican government believes it necessary to seize this opportunity to ask the government of the United States for a definition more exact of its true intentions toward Mexico. In this respect it is hoped that by expressing itself with complete frankness, the Mexican government will not be considered anxious to hurt the sensibilities of the American government but in its true light as an effort to put aside diplomatic vapors to make its thoughts perfectly clear. The Mexican government considers it its duty to make perfectly clear to the government and the people of the United States the Mexican point of view.... Either ... the American government desires sincerely and frankly to aid the Mexican government to reestablish peace, and in this case it ought not to impede the passage of arms, or the true intentions of the American government are to be prepared in case of a future war with Mexico by seeing that Mexico has less arms and material. If the latter be the case, it would be preferable to say so.... The true plans of the military authorities of the United States are in absolute contradiction with the continuous protests of friendship of the American government toward Mexico.
>
> The people and the government of Mexico have the absolute conviction that the American people do not desire war with Mexico. There are nevertheless strong American interests and strong Mexican interests trying to bring about a conflict between both countries. The government of Mexico desires firmly to maintain peace with the American government, but for this it is indispensable that the American government explain frankly its true intentions toward Mexico.

[109] Nota Enviada por el Gobierno Constitucionalista al de la Casa Blanca Con Motivo de las Incursiones de Tropas Americanos en Territorio Mexicano, 19.

President Wilson in the United States was also warning the American people that some persons were trying to create intolerable friction on the Mexican-American border in order to provoke intervention against the de facto government of Mexico in favor of certain American owners of Mexican property. Wilson further declared that Americans should realize that sinister forces were at work.[110] According to Amos Pinchot

[110] Amos Pinchot, "We Can Have Peace If We Want It; An Open Letter About Mexico," in The New York Times, June 30, 1916, reprint, n.p.

the American owners of three or four billions of investments in Mexico felt that the money must be protected by intervention or annexation while Carranza and his supporters felt that freedom could not exist in Mexico as long as natural resources were in the hands of a few powerful individuals.[111]

[111] Ibid., n.p.

Conferences at Juárez between General Alvaro Obregón and United States General Scott were held in May, 1916, to try to ease the situation, and Obregón wired Carranza on May 10, 1916, that he was convinced that the American government,

despite enormous pressure from interventionists and other influencial elements, was firmly determined to withdraw it troops from Mexico but was equally determined to avoid the appearance of weakness in order not to irritate public opinion.[112] The

[112] Mexican Foreign Office, Diplomatic Dealings of the Constitutionalist Revolution of Mexico, 490.

clash between American and Carranzista forces at Carrizal and the capture of some American soldiers did not contribute to smoothing the situation, but a direct appeal from labor-leader Samuel Gompers to Carranza speeded their release and a wire from Carranza to Gompers informed Gompers of their being freed.[113]

[113] Hammond, "Mexican Labor and World Affairs," in S. D. Meyers (ed.), Mexico and the United States, Proceedings of Fifth Annual Conference Institute of Public Affairs Auspices Carnegie Endowment for International Peace, 1938, p. 94.

Obregón in his conferences with General Scott was warned by Carranza not to hurry since the American government was in a more embarrassing position than Mexico and that time was working in Mexico's favor.[114] Furthermore, General Obregón

[114] Mexican Foreign Office, Diplomatic Dealings of the Constitutionalist Revolution of Mexico, 194.

was visited by a committee of New York bankers who offered to

lend the Mexican government money at a low rate of interest; they informed Obregón that the Thomas D. Ryan Company had the consent of President Wilson to the proposal.[115]

[115] Ibid., 201.

The circumstances were made more delicate by the international situation which both presented Mexico with an opportunity and increased the danger of her daring to exploit it. As Luis Cabrera pointed out in November, 1916:[116]

> As a neighbor of the United States, Mexico will also have as an international problem the danger of conflict between the United States and some other European or Asiatic power. The foes of the United States, who are always foes of the whole American continent, will certainly assume to be friends of Mexico, and will try to take advantage of any sort of resentment, feeling, or distrust that Mexico may have against the United States.

[116] Luis Cabrera, "The Mexican Revolution--Its Causes, Purposes, and Results," in "The Purposes and Ideas of the Mexican Revolution. Addresses Delivered at a Joint Session of the American Academy of Political and Social Science and the Pennsylvania Arbitration and Peace Society, Held Friday Evening, November 10, 1916," in The Annals of the American Academy of Political and Social Science, LXIX, supplement, 9.

Nevertheless Carranza was not in grave danger from the Wilson government and gradually American forces were withdrawn from Mexico and de jure recognition was extended to Carranza in 1917.[117]

[117] The Status of Americans in Mexico; Bulletins of the American Association of Mexico, 18.

What of the oil companies during the period of political anarchy? Weetman Pearson's El Aguila was valued in 1913 at five million pounds by Pearson himself; it represented 60% of Mexican oil production.[118] From 1914 to 1918 El Aguila's divi-

[118] Enrique González Aparicio, Nuestro Petróleo, 48.

dends equaled 77% of its invested capital and reserves set aside were 100% of capital, an earning of 177% for the period.[119]

[119] Vázquez Schiaffino, Santaella, y Elorduy, Informes sobre la Cuestión Petrolera, 20.

The dividend for 1918 paid by El Aguila was 25%,[120] the year

[120] Díaz Dufoo, La Cuestión del Petróleo, 322.

during which Mexico was the world's second largest producer of oil.[121] Those were the years of World War I and it is

[121] "Mexican Petroleum," in Commercial Pan America, A Monthly Review of Commerce and Finance, XV, 2.

worth noting that about half of the oil used in that war by Great Britain came from Mexico.[122]

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[122] Kluckhorn, Mexican Challenge, 100. The importance of oil, in large part Mexican oil, in World War I was well illustrated by Clemenceau's notice to Woodrow Wilson on December 14, 1917, that France must not lack gasoline which was as necessary as blood in the battles against Germany; by Marshall Foch's declaration that the allied victory over Germany was the victory of the truck over the locomotive; and by Lord Curzon's toast at a victory banquet in November, 1918, which stated that the war could not have been concluded successfully without petroleum. See Francis Delaisi, El Petróleo, translated by J. Luis Langet, 78, 180, 182-183.

Weetman Pearson, seemingly tired of struggling with the American oil companies and the Mexican situation, tried in 1919 to sell his interests to American oil companies, but the British government forced him to sell instead to an English company, Royal Dutch Shell,[123] which had begun operations in

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[123] Bach y De la Peña, México y Su Petróleo, 18.

Mexico in 1912 by organizing La Corona Compañía Mexicana.[124]

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[124] Brooks, Peace, Plenty, and Petroleum, 122.

Doheny's Mexican Petroleum Company of Delaware and its subsidiaries had acquired oil rights in the Tampico-Vera Cruz area by 1917 over some six hundred thousand acres.[125] Profits

[125]Clarence W. Barron, The Mexican Problem, end paper map.

of the Doheny properties doubled from 1917 to 1918 and dividend payments rose from $2,140,263 (U.S.) to $4,128,008.[126]

[126]Investigation of Mexican Affairs, I, 248.

The estimated value of the total American investment in Mexican oil production in 1914 was around $85,000,000 (U.S.).[127]

[127]Lewis, America's Stake in International Investments, 221.

The rapid expansion of the American investment was clear when compared with the 1911 evaluation of fifteen million dollars.[128]

[128]Ibid., 614.

Despite the de jure recognition extended to Carranza's government in 1917, difficulties with Mexico continued. Constitutionalist's control never extended during the government of Carranza over all the oil region which remained largely under the power of General Pelaez.[129] The situation for the

[129]Díaz Dufoo, La Cuestión del Petróleo, 175.

oil companies was consequently involved, since both the de facto Constitutionalist government and the rebel Palaez government demanded taxes from them. As the Palaez forces were in immediate control of the oil region, both Huasteca and El Aguila paid large sums to Palaez to avoid forceable stoppage of oil pumping with the irreparable damage which resulted from such stoppage.[130] The consequence of that action was charges

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[130] Ibid., 176. See also Investigation of Mexican Affairs, I, testimony of Edward L. Doheny.

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by the Carranza government against the oil companies of financing rebillion against the legal government of Mexico. Both El Aguila and Huasteca were accused by Luis Cabrera, Carranza's secretario de hacienda, of furnishing Palaez with money and arms.[131] Not every oil man in Mexico was opposed to such

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[131] Díaz Dufoo, La Cuestión del Petróleo, 178.

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methods of acquiring favorable governmental attitudes. As one oil man testified:[132]

> The oil companies after receiving no relief from Carranza ... should have told the State Department just what they had already told Carranza, and if they failed to receive relief here, they should have financed a revolution to take over and permanently administer the oil fields, which they could have done for an expenditure of $200,00 a month, whereas they are today paying Carranza over $1,000,000 a month.

[132] Investigation of Mexican Affairs, I, 838. Testimony of Frank Buckley, in oil business in Mexico.

Such testimony made understandable the charges that the several years of revolution in Mexico had been caused by struggles for oil[133] and the accusation that when the oil people

[133] García Robles, El Panamericanismo y la Política del Buen Vecino, 73-74.

entered Mexico her difficulties in the form of revolutions and uprisings all over the country began.[134]

[134] Anton Zischka, La Lucha por el Petróleo, 64.

Certainly the situation for Mexico was sufficiently complex. Her political, economic, international, internal, and social affairs were all in a state of crisis, lying exhausted from a previous condition of crisis, or gathering strength to survive an anticipated crisis. And all the critical problems seemed to be connected with the oil industry. That the concessions granted to the oil companies were a heavy burden for Mexico and a threat to her future without advantage of any sort, a painful danger to her international relations, directly affecting the autonomy of the country, seemed evident to the Mexican government.[135] Mexico had found the exploitation

[135] Felipe Llanas, "México y Su Petróleo," in Boletín del Petróleo, II, 7-9

of its resources by the oil companies a constant source of turbulence, internal difficulties, and serious international conflicts.[136]

[136] Informe Que Rinde a la Junta Federal, I, 152.

Even at Versailles, where Alberto J. Pani represented Mexico unofficially at the peace conference constructing the League of Nations, Mexico found the oil industry, in the person of Edward L. Doheny, present and demanding that some action be taken by the American commissioners to protect foreign interests in Mexico.[137] The British government let Pani know

[137] Letter of Pani to Carranza, February 13, 1919, printed in Pani, Cuestiones Diversas, 20. Pani was told by one member of the commission that Doheny would have to return to the United States with his tale between his legs. Ibid.

in Paris that recognition of Carranza might be secured by Mexican acceptance of aid from England, France, and the United States in its financial difficulties with some degree of control accompanying the aid.[138] When the work of the conference

[138] Letter of Pani to Carranza, September 8, 1919, in ibid., 279.

was complete, Mexico, along with the Soviet Union, was not invited to become a member of the League of Nations, and the Monroe Doctrine was included as a part of the League Covenant. Pani felt that Wilson was forced to reckon with the politico-imperialist position of his own country and to accede to the internationalization of the unilateral Monroe Doctrine despite Latin-American opposition and his own declaration that the Monroe Doctrine did not have the consent of Latin America.[139]

[139] Letter of Pani to Carranza, May 6, 1919, in ibid., 226-227.

The most pressing of Mexico's international conflicts continued to be with the United States. Intervention was still a much discussed possibility. Samuel Gompers had stated in 1916 that foreign concessionaries held the rightful wealth of the Mexican people and were trying to provoke intervention by some force to suppress the Carranza revolution.[140] The propaganda for intervention in Mexico was still a menace to peace in 1920, according to the American Federation of Labor.[141]

[140] Hammond, "Mexican Labor and World Affairs," in S. D. Meyers (ed.), Mexico and the United States, Proceedings of the Fifth Annual Conference Institute of Public Affairs Auspices Carnegie Endowment for International Peace, 1938, p. 93.

[141] Ibid., 96.

And Senator Ladd of South Dakota declared in cognizance of the pressure for action against Mexico that the demands of private oil and land interests for intervention in Mexico were not superior to the welfare of the whole American nation.[142]

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[142] Our Duty to Mexico. Speech of Senator Ladd, 5.

Carranza himself stated that citizens of the United States interested in the oil properties of Mexico had initiated a propaganda campaign in the press of America to impress upon public opinion the necessity of intervention in Mexico to prevent Mexican law from hindering their interests.[143] Carranza

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[143] Informes de V. Carranza á la Cámara de Diputados 1919, p. 20. Carranza might have been moved to this opinion by statements such as that of Ira J. Williams, president of Panuco-Boston Oil Company that there appeared to be authentic records of the murders of perhaps five hundred United States citizens in Mexico from 1910-1919 without the record of the murder of a single German. See Investigation of Mexican Affairs, I, 598.

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felt reasonably secure, beyond doubt, in light of President Wilson's policy of distinguishing carefully between armed intervention and diplomatic intervention. Since Wilson had declared that he would not support armed intervention in another state for the purpose of satisfying private interests, but asked only that United States citizens receive equal and just treatment in Mexican law and before Mexican tribunals, Carranza expected that the United States would respect Mexican

sovereignty. To have violated Mexico's sovereignty on the ground of lack of guarantees for United States nationals or inconvenience of certain legislation for their interests, Mexico felt, meant an unpardonable violation of principles of law and international morality.[144] Carranza had declared that the

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[144] Informes de V. Carranza á la Cámara de Diputados 1919, p. 21.

Mexican government had adopted as basic principles of its international policy that all states of the globe had the same rights and obligations as well as that no individuals of any state could invoke privileged situations within Mexico or any other state in the title of a foreign country.[145] In conse-

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[145] Ibid., 36.

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quence any violation of Mexican sovereignty, after the declarations of Wilson and Carranza, could only demonstrate that the greatest misfortune of a people was to be weak.[146]

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[146] Ibid., 21.

Agitation within the United States against Mexico continued, however, and in September, 1919, the United States Senate began its investigation of Mexican affairs, the in-

vestigatory committee being under the chairmanship of Senator Albert B. Fall. The report of the committee, issued in May, 1920, was a demand for intervention in and control of Mexico.[147]

[147] Investigation of Mexican Affairs, II, 3369-3373.

It was before the Fall committee that Edward L. Doheny declared:[148]

> ... the oil lands that are owned and have been acquired by Americans anywhere in the world ... should not be allowed to be confiscated by a Government, whether it be British, Mexican, or any other. They ought to be maintained.

[148] Ibid., I, 254.

Doheny had proclaimed in a letter written in March, 1918, to Fuel Oil Administrator Mark L. Requa, during World War I, that the future welfare and prosperity of the United States, during and after the war, would be dependent largely on the uninterrupted and continued exploitation and control of the Mexican oil fields owned by American companies.[149] Former Secretary

[149] Ibid., I, 250.

of the Interior Franklin K. Lane also stated that the United States would insist that oil discovered by Americans in Mexico be used for the benefit of the United States so long as that

use did not conflict with Mexican interests. Lane further declared that the United States must have more oil and that it was essential for oil to flow from Mexico to the United States for the continued growth of the merchant marine, foreign trade, the navy, and industries of the United States.[150] Since Mexi-

[150] Investigation of Mexican Affairs, II, 2273-2274.

co was also accused of fostering Bolshevism and not preventing its spread to the United States,[151] the bill of particulars,

[151] Ibid., II, 3361.

sufficient to justify more than mere intervention, was very nearly complete.

The renewal of civil war in Mexico in 1920 returned the situation to one of flux, in which developments favorable to American interests were possible without intervention. Moreover, Woodrow Wilson and the Democratic Party retired from control of the American government in March, 1921, by which time great new fields of petroleum had been discovered within the United States. Finally, Carranza was forced to abandon Mexico City by rebel forces and was murdered by a group of Palaezistas on his way to Vera Cruz.[152] The removal of both

[152] Our Duty to Mexico. Speech of Senator Ladd, 11. Sena-

tor Ladd felt that some connection existed between the murder and the oil companies which were closely tied, he felt, to General Palaez. Ibid.

Wilson and Carranza from the scene inevitably implied new approaches to the same problems. Wilson's policy, according to former Ambassador Henry Lane Wilson, could not be supported by any well-informed man who was patriotic and a true American.[153]

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[153] Investigation of Mexican Affairs, II, 2308-2309.

A Mexican opinion, less vitriolic, was that Wilson made the same mistake in regard to Mexico that the North made in regard to the South after the Civil War--a noble ambition to carry social and economic emancipation to an oppressed people failed because of ignorance concerning the true conditions of the country and the people involved.[154]

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[154] Jorge Vera Estañol, Carranza and His Bolshevik Regime, 242.

CHAPTER IX

THE MEXICAN OIL INDUSTRY AND GOVERNMENTAL POLICY, 1919-1937

The years 1917-1922 were the "golden age" of Mexico's oil industry, for during them production was at its peak, as were profits and activity in the oil business. The potential production of Mexico in 1917 was 581,350,100 barrels; actual production of the whole world in 1917 was 500,651,086 barrels.[1]

[1] Vázquez Schiaffino, Santaella, y Elorduy, Informes sobre la Cuestión Petrolera, 21.

The flow of Mexican oil was from approximately 174 wells, that number being productive out of the 279 wells drilled before 1917.[2] The greatest investment of capital in the Mexican oil industry took place after 1917, some 78% of the total amount invested by 1926-1928 having been put into the industry after 1917.[3]

[2] Gustavo Ortega, La Industria Petrolera Mexicana: Sus Antecedentes y Su Estado Actual, mimeograph, 8.

[3] William E. Walling, The Mexican Question: Mexico and American-Mexican Relations under Calles and Obregón, 27. Hereafter cited as Walling, The Mexican Question.

Such investments were lucrative, for Doheny's Mexican Petroleum Company produced 17,587,138 barrels and realized $17,457,292 (U.S.) in 1917 and doubled its dividends in 1918.[4]

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[4] Investigation of Mexican Affairs, I, 246-248.

The investment of the Mexican Petroleum Company was at most nineteen million dollars (U.S.) and perhaps as little as twelve millions, but its average annual profit, 1919-1921, was ten million dollars (U.S.).[5]

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[5] Howland (ed.), Survey of American Foreign Relations, 161.

El Aguila in 1919 had eighty producing wells and owned oil lands covering 38,898 acres with contract rights over 1,124,562 acres more. It owned two refineries with a capacity of 96,680 and 29,994 barrels daily, respectively, and its liquid earnings amounted to 29,508,125 pesos. El Aguila paid three dividends on common and preferred stock in 1919, the last dividend being 35%.[6]

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[6] Cámara de Senadores, El Petróleo, 241 ff.

Standard Oil by 1919 had acquired ten subsidiaries in Mexico, all north of Vera Cruz. Its seventy-seven wells supplied oil for two refineries with a capacity of 29,425 barrels

together.[7] The total number of registered oil companies in

[7] Ibid., 243-244.

Mexico in 1920 was around five hundred and the number of producing wells 343. The companies had leased 2,012,604 hectares (6,031,510 acres) and owned 677,553 hectares (1,693,882 acres), for a total of 2,690,157 hectares (4,725,392 acres), an area which covered only one thirtieth of the probable oil lands.[8]

[8] Díaz Dufoo, La Cuestión del Petróleo, 96.

The oil industry seemingly was set for large-scale expansion and production in Mexico, but it was precisely at that stage that expansion of the oil industry began to slow to a halt in Mexico.

The Constitution of Querétaro was written in the spring of 1917; the petroleum taxes of 1918 were decreed;[9] and drill-

[9] See above, Chapter III.

ing permits were denied companies refusing to pay the 1918 imposts. The limitation of the right to drill new wells did not harm the industry, according to the Mexican government, since wells in production were not being pumped to their capacity and new wells were not needed to meet production sched-

ules.[10] By 1919 the organic law for Article 27 was under con-

[10] Vázquez Schiaffino, Santaella, y Elorduy, Informes sobre la Cuestión Petrolera, 7.

sideration and, to secure drilling permits, the companies had to promise to abide by the law when passed. The action of the British oil interests in accepting the Mexican government's demand in regard to drilling permits produced a charge from Senator Albert Fall that they betrayed the American Association of Oil Companies by their acceptance.[11] Oil Companies brought

[11] Walling, The Mexican Question, 101.

eighty suits of amparo before the Mexican courts against the 1918 decrees by 1919.[12] The American Department of State in

[12] Vázquez Schiaffino, Santaella, y Elorduy, Informes sobre la Cuestión Petrolera, 4.

1919 protested the Mexican government's denial of drilling permits to American companies.[13] Carranza's defense of the

[13] Standard Oil of New Jersey, Present Status, 11.

Mexican policy was that lack of means of transportation limited production of oil to only 10% of the potential daily production

of 1,800,000 barrels; since so much potential production from 310 wells was unused, Carranza declared new drillings were not necessary.[14]

[14] Informes de V. Carranza á la Cámara de Diputados 1919, p. 113.

The intense struggle between 1919-1923 over Mexican law and the oil industry[15] helped unquestionably to stop the expansion of the industry in Mexico, although production actually increased temporarily. There were eighty-six producing companies in Mexico in 1920 and seventeen exported over one million barrels each.[16] Producing wells in 1921 numbered 206[17] (less than in 1919) but barrels pumped reached 193,397,587,[18] the highest output in Mexico's history to that date. Taxes

[15] See above, Chapter IV.

[16] Archer (ed.), Mexican Petroleum, 229.

[17] José S. Noriega, Influencia de los Hidrocarburos en la Industrialización de México Monográfias Industriales del Banco de México, S.A., 234. Hereafter cited as Noriega, Influencia de los Hidrocarburos en la Industrialización de México.

[18] Manterola, La Industria del Petróleo en México, 97.

paid by the oil industry in 1921 amounted to 88,213,494.48 pesos and were virtually the same in 1922.[19] Of her production

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[19] Cámara de Senadores, El Petróleo, 288.

Mexico exported 81% in 1918 but this percentage rose to 99% in 1922.[20] Production rose seven times from 1914 to 1922 but

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[20] José López Portillo, 2a. Exposición Objectiva del Plan Sexenal. El Aspecto Técnico del Conflicto Petróleo en México, 27. Hereafter cited as López Portillo, Exposición Objectiva del Plan Sexenal.

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oil exported in 1922 was ten times that of 1914.[21]

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[21] Ibid., 12.

After 1921 Mexican production declined steadily each year until 1933. In Texas, on the other hand, which began producing oil about the same time as Mexico, production followed an opposite course in the period. In 1921 Mexico's production from 206 wells was twice that of Texas from 13,300 wells, but while 893 wells were drilled in Mexico in 1921, some 25,000 were being drilled in Texas.[22] Subsequently new drillings in

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[22] Manterola, La Industria del Petróleo en México, 97. See also Noriega, Influencia de los Hidrocarburos en la Industrialización de México, 234-235.

Mexico fell farther and farther behind explorations in Texas and other oil producing regions. The anticipated growth of production did not follow in Mexico, in part perhaps because the American government did not follow without hesitation the policy urged on it in 1920 by one writer who declared that the national interest, regardless of incidental advantage accruing to private individuals, demanded that American oil companies be encouraged by all the power of their government to acquire sources of oil wherever they might be.[23] None the less, a

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[23]Victor Ross, The Evolution of the Oil Industry, 169-170.

Spanish commentator declared in 1921 that no country in the world had been the scene of so violent a struggle for oil concessions as Mexico.[24] The political situation of Mexico was

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[24]Paul Boraces, El Petróleo Mexicano...¿Es "Cosa Robada?" 13.

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closely tied to the solution of the agrarian, mining, and oil questions, and since those were tightly linked to the scientific determination of expropriation for public utility,[25] in

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[25]Luis Rojas de la Torre, La Expropiación por Causa de Utilidad Pública: Estudio Jurídico, 4. Rojas de la Torre was president of the constituent congress of 1917 at Querétaro.

turn an avenue by which diplomatic interference from foreign governments arrived, the size of the dilemma facing Mexico was ominous.

Factors precipitating the decline in Mexican production after 1921 were of course numerous. Low prices; exhaustion of oil fields at Fala de Oro, Cacalilao, and Pánuco; uncertainty and restrictiveness of Mexican law; and high taxes were causes according to one group of producers.[26] The drop in

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[26] Association of Producers of Petroleum in Mexico, Current Conditions in Mexico, mimeograph, 37.

Mexican output was also caused by the enormous production of wells in existence which discouraged further exploration; world overproduction of oil after the discovery of fields in Texas, California, and Oklahoma and increased production in Russia and Venezuela; and rising political activity of the workers in Mexican oil whose unionization the companies resisted by lessening the working force and limiting expansion.[27]

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[27] Secretaría de Educación Pública, Sobre el Petróleo de México: Conferencias, 36. See also Manterola, La Industria del Petróleo in México, 107-109.

Certainly the rise of Venezuela as an oil producer corresponded with Mexico's decline and undoubtedly the search for oil did turn from Mexico's unfavorable political climate to Vene-

zuela.[28] Still another factor in the decline in Mexican pro-

[28] Joseph E. Pogue, Oil and the Americas: An Address by Joseph E. Pogue, Vice-President, the Chase National Bank of the City of New York, before the Inter-American Institute of the University of North Carolina at Chapel Hill on Thursday, June 22, 1944, p. 13. Hereafter cited as Pogue, Oil and the Americas.

duction was the delay in the issuance of concessions legally requested.[29] Further contributing to the decreasing productivity of the oil industry in Mexico was the falling of the oil fields under the control of a few large companies interested in stable production internationally.[30] All these conditions

[29] Objeciones de la Industria Petrólera al Informe y Dictamen de la Comisión Pericial, 8.

[30] George W. Stocking, "The Mexican Oil Problem," in International Conciliation, No. 345, p. 496.

discouraged the "wild catter" who withdrew from Mexico and by so doing also added his loss as a factor in declining productivity.[31]

[31] Ibid., 496.

The Mexican government itself entered the business of oil

production in 1922, setting up a bureau to explore the 86% of the oil lands held as public land. The company came to produce about one percent of Mexican output, but, according to Standard Oil of New Jersey, it gained this production primarily by drilling in the federal zones of creek beds, lagoons, and ponds within the boundaries of privately-discovered oil fields.[32]

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[32]Standard Oil of New Jersey, Confiscation or Expropriation? Mexico's Seizure of the Foreign-Owned Oil Industry, 52. See also Standard Oil of New Jersey, Present Status, 45.

The American investment in Mexican oil by 1922 amounted to $303,000,000 (U.S.) according to the Federal Trade Commission; of the total $41,000,000 (U.S.) were in ships and the rest in real property in Mexico, including lands.[33] Royal

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[33]Lewis, America's Stake in International Investments, 589.

Dutch Shell in 1923 abandoned a new refinery constructed at a four million dollar cost and by 1924 the companies were investing their earnings outside Mexico and reducing the book value of their property there.[34] Employment in the oil indus-

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[34]Ibid.

try dropped from fifty thousand to sixteen thousand after 1921.[35]

[35] Standard Oil of New Jersey, Confiscation or Expropriation? Mexico's Seizure of the Foreign-Owned Oil Industry, 83.

The petroleum industry was capitalized in 1922, according to Secretario de Relaciones Exteriores Pani, at $1,050,532,434 pesos or $510,000,000 (U.S.), with the subsoil included in the estimate. Of the amount, 91.5% was Anglo-American and only 1.1% Mexican.[36] The distribution of investment in Mexican oil

[36] Charles W. Hackett, "The Mexican Revolution and the United States, 1910-1926," in World Peace Foundation Pamphlets, IX, 363. See also Standard Oil of New Jersey, Present Status, 4.

in 1923, according to Pani, was 57.7% American, 33.8% British, 6.7% Dutch, Mexican 1.1%, and other 0.7%.[37]

[37] Charles W. Hackett, "United States-Mexican Relations since 1920," in S. D. Meyers (ed.), Mexico and the United States, Proceedings of the Fifth Annual Conference Institute of Public Affairs Auspices Carnegie Endowment for International Peace, 1938, p. 175.

The Mexican government of Obregón, being unrecognized and faced with the complex financial, domestic, and international situation previously described, retreated before United States pressure in defense of American investments in Mexico and agreed to the Bucareli Conference.[38] Already Secretary Pani

[38]See above, Chapter VI.

had told the American government that the Mexican Supreme Court had clearly defined the non-retroactive character of Article 27 in so far as it affected petroleum rights,[39] but

[39]Charles W. Hackett, "The Mexican Revolution and the United States, 1910-1926," in World Peace Foundation Pamphlets, IX, 363.

Secretary of State Hughes declared in July, 1922, that the decisions did not protect adequately American citizens' rights in petroleum lands nor did the actions of Obregón's government promise such protection.[40] At Bucareli the Mexican government

[40]Foreign Relations 1922, II, 674-680.

made a humiliating retreat from the defense of the constitution and of Article 27,[41] but Obregón did secure recognition

[41]Sindicato de Trabajadores Petroleros, La Cuestión Petrolero, 25-32.

for his government and even a loan of five million dollars from Edward F. Doheny.[42] Even some new capital, about

[42] Ise, The United States Oil Policy, 382. After the meeting and agreement between the oil representatives and Obregón in 1921, it was reported that the oil men had promised to work for the recognition of Obregón's government. See Foreign Relations 1921, II, 458.

$9,500,000 (U.S.), was invested by Doheny's Mexican Petroleum Company.[43]

[43] Howland (ed.), Survey of American Foreign Relations, 161.

Following Bucareli (which had produced no formal agreement in regard to oil lands), further conferences were held in 1924 between oil company representatives and the Mexican government at which the principal issue discussed was taxation of the oil lands. The method of taxing the lands and the value to be assessed against them touched the issue of pre-1917 rights to the subsoil which both oil men and government wished to avoid reviving.[44] The oil men asked a reduction in taxes,

[44] Minutes of the Committee of 1924, p. 66.

but Foreign Minister Pani declared government figures indicated that taxation was low, not high, in light of the great profits of the oil companies.[45] The oil companies' view was that the

[45] Ibid., 110.

financial condition of the companies bore no relevancy to the question of taxes and that without agreement on that matter the conference would have accomplished little.[46] When the

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[46] Ibid., 113.

Committee adjourned in October, 1924, the Mexican government and the oil companies were agreed that preferential rights to explore the subsoil should be granted to surface holders and lessees, this clause being modified by a statement that it continued the policy of former decrees and executive orders; that any owner or lessee whose contract or title was good and not contested would receive the "faculty" (instead of concession, privilege, or right) of exploring the subsoil and exploiting it if regular works were set up; that the government recognized the advisability of establishing lower taxes for a set period in territory where oil was newly discovered; that the government would study means whereby subsoil explorations would not be interferred with by surface expropriations; and that the federal government agreed to make the organic law for Article 27 harmonize with the work of the Committee.[47]

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[47] Ibid., 119-122. The work of the committee was reported on by the members to the American ambassador.

The close connection between the oil company negotiations

and the American government had provoked a resolution from the United States Senate asking the Secretary of State if his department had been utilizing diplomatic correspondence to secure oil concessions for American citizens in foreign countries. Secretary of State Hughes' reply, April 22, 1924, was no.[48]

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[48] Oil Concessions in Foreign Countries. Message from the President of the United States Transmitting in Response to Senate Resolution No. 149 of February 13, 1924, a Report of the Secretary of State Relative to the Diplomatic Correspondence in Connection with Securing Oil Concessions for American Citizens between this Government and the Governments of Certain Foreign Countries Regarding Oil Concessions in those Countries (68 Congress, 1 session, Senate Document no. 210).

The Mexican oil industry was still flourishing, if not one of the most lucrative known,[49] in 1924. According to the

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[49] Ortega, Los Recursos Petroliferos Mexicanos y Su Actual Explotación, 15. See also Secretaría de Industria, Comercio, y Trabajo, La Industria, el Comercio, y el Trabajo, I, 46.

Mexican government the invested capital of the industry amounted to 796,400,000 pesos ($398,200,000 U.S.) with the lands on which the industry operated being valued at an additional 354,000,000 pesos ($177,000,000 U.S.). The investment of American capital in Mexican oil was estimated on December 31, 1924, at 448,157,836 pesos (57.46% of total invested), British capital at 204,048,322 pesos (26.16% of total), Dutch capital at 88,639,949 pesos (11.37%), and Mexican capital at 23,519,964

pesos (3.02%).[50] From that investment the companies had real-

[50] Informes por Obregón, 83. See also Ortega, Los Recursos Petroliferos Mexicanos y Su Actual Explotación, 37.

ized 1,758,403,464 pesos ($878,201,732 U.S.) from the sale of 1,118,247,117 barrels of oil during the years of the industry's work in Mexico.[51]

[51] Informes por Obregón, 83.

The industry in 1924 had six complete refineries in Mexico with a capacity of 30,570 cubic meters (810,105 barrels) daily; there were eight primary refineries in 1924 with a daily capacity of 42,614 cubic meters (1,129,271 barrels).[52]

[52] Manterola, La Industria del Petróleo en México, 62.

Total production of crude oil amounted to 139,678,294 barrels. The production and exportation of the major oil companies in 1924 were as follows:[53]

	Production (bbls.)	Exportations (bbls.)
El Aguila	5,793,832	12,345,609
Agwi	840,476	746,812
Huasteca	8,594,763	28,302,207
El Imperio	7,781,195	2,948,450
Mexican Gulf	10,786,865	9,915,650
New England Fuel	2,474,889	2,018,260
Mexican Sinclair	5,194,037	12,499,897
Transcontinental	20,406,320	30,542,711
Tuxpam Petroleum	13,190,545	none

[53] Ortega, Los Recursos Petroliferos Mexicanos y Su Actual Explotación, 30, 36. Of the total exported 94,726,507 barrels went to the United States. See ibid., 37.

The passage by Mexico in 1925 of the organic law for Article 27[54] precipitated anew the struggle between oil companies

[54] See above, Chapter IV.

and government with the oil companies refraining from new drilling pending settlement of the controversy.[55] Production

[55] Bach y De la Peña, México y Su Petróleo, 16.

dropped from 115,514,700 barrels in 1925 to 90,420,973 in 1926 down to 64,121,142 barrels in 1927. Bank deposits were withdrawn by the oil companies and a financial and economic crisis followed, not to mention renewed threats of intervention from the American government.[56]

[56] Manterola, La Industria del Petróleo en México, 97. See also Secretaría de Educación Pública, Sobre el Petróleo de México: Conferencias, 71.

Since the law of 1925 set up a system of concessions for the securing of permission to exploit the subsoil and did not distinguish between owners of the surface and lessees in grant-

ing such concessions for fifty-year terms, United States Secretary of State Kellogg notified Mexico that laws affecting the property of Americans in Mexico legally could not limit rights vested in the alien prior to the passage of the law. The Secretary denied to Mexico that various of the United States, viz., Illinois and Arizona, had limited the vested property rights of foreigners in those states--a denial that was inaccurate according to one authority.[57] The crisis over the law of 1925

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[57] Dunn, The Diplomatic Protection of Americans in Mexico, 387-389.

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prevented the granting of any concessions for oil exploration or exploitation in 1925.[58]

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[58] Secretaría de Industria, Comercio, y Trabajo, La Industria, el Comercio, y el Trabajo, I, 388.

The State Department's opposition to the petroleum law caused Secretary Kellogg to warn Mexico in 1926 that the United States expected her to respect fully the acquired property rights of American citizens and not to take any action depriving Americans of full ownership and enjoyment of their property.[59] The bitterness of the Mexican reaction was expressed

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[59] Foreign Relations 1926, II, 670.

with some degree of violence by the press of Mexico City.

El Universal declared on January 20, 1926:[60]

> International harmony cannot be preserved unless it includes all nations on the same plane of justice. For that reason the Mexican problem is the problem of the whole world. The principle under discussion is universal. So should all people of the world understand it. Whoever attacks the national sovereignty and does not provoke at once a serious reaction against international injustice will justify greater attacks against other countries. We have issued law which affects only persons and things which are within our territory, and which do not break any legitimate right of citizens or subjects of other nationalities ... and nevertheless the White House mixes in affairs which are of our exclusive right ... reproaches us for acts which the governments that censure us have also committed....

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[60] La Prensa Metropolitana y el Artículo 27 Constitucional, 6-7, quoting El Universal.

Again El Universal protested on January 22, 1926:[61]

> Each time the United States ... threatens us with a rupture of relations, in fact its attitude is equivalent to threatening us with acts of violence.... The coalition of some functionaries of the White House with certain capitalistic interests is potent and constitutes a serious danger. It is not the true spirit of our legislation which the imperialists struggle against.... They do not protest hostile acts.... They dispute no more than our right to think for ourselves.

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[61] Ibid., 11-12, quoting El Universal.

Excelsior reacted in much the same manner as El Universal:[62]

> Since Poinsett, one of the worst enemies of our country, came to Mexico as the envoy of the United States, intrigues

> have followed almost without interruption, and beginning with the infamous annexation of Texas and the vicious war of '47 until the present epoch in which another lust--that for petroleum--gave origin to the most perfidious maneuvers, there has always been encountered in our political and economic life the trail of Yankee imperialism which pretends to impose its hegemony upon the Mexican people and their government.

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[62] Ibid., 32, quoting El Excelsior.

El Demócrata, January 23, 1926, urged the Mexican government to fill a hemispheric role:[63]

> We must not forget the role which the continent urges on us, nor that our weakness would be fatal for the interests of twenty nations. The abuses of force in Santo Domingo and Haiti make martyrs of those peoples, but our complacency would be considered as a continental treason and not as martyrdom.

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[63] Ibid., 51, quoting El Demócrata.

Even from Buenos Aires it was declared that until Mr. Kellogg's disavowal it had been accepted as a commonplace that English and American oil companies had fomented all the Mexican revolutions and had opposed caudillos according to their interests. The only person not aware of this apparently was Kellogg, in the opinion of Sr. Santos Múñoz.[64] In the United

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[64] Pablo Santos Múñoz, El Problema del Petróleo en Méjico, 11.

States Senate the Secretary of State was requested to furnish the names of American investors in oil lands or concessions, the names of foreign investors who had accepted the law of Mexico relating to oil lands and concessions or titles acquired prior to May 1, 1917, the names of American investors refusing to accept Mexican law in this regard, and the nature of the State Department advice to such individuals.[65]

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[65] Oil Concessions in Mexico, 1.

The State Department replied that the list of investors in pre-1917 lands included Mexican Gulf Oil Company, the Mexican Petroleum Company of California, Mexican Sinclair Petroleum Corporation, Huasteca Petroleum Company, and other companies and individuals. Only four companies had applied for confirmatory concessions under the petroleum law of 1925 and two of those were not producing oil in Mexico and the others owned no fee property.[66]

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[66] Ibid., 3.

Foreign corporations refusing to accept the new petroleum law included the Atlantic Refining Company and its Mexican subsidiary La Atlántica Compañía Mexicana Productora y Refinadora de Petróleo, S.A.; the Atlantic Gulf Oil Corporation and its subsidiary Cía. Petrolera del Agwi; Humble Oil and Refining

Company and its subsidiary Cía. Petrolera Tamaulipas, S.A.; Standard Oil Company of California and its subsidiary Richmond Petroleum Company of Mexico, S.A.; Standard Oil Company of New Jersey and its subsidiary Cía. Transcontinental de Petróleo, S.A.; Anglo-Mexican Petroleum Company, Ltd., and its subsidiary Cía. Mexicana de Petróleo, El Aguila, S.A.; and Royal Dutch Shell and its subsidiary, Cía. Mexicana Holandesa, La Corona, S.A. As for advice to American property holders in Mexico in regard to the petroleum law, the Secretary declared he had given none but had informed them of the attitude of the United States government as evidenced in diplomatic correspondence.[67]

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[67] Foreign Relations 1927, III, 180-181.

President Coolidge announced in 1927 that the United States was notifying Mexico of its intention to revoke the convention relating to the smuggling of arms across the United States-Mexican border and to the informing of each government by the other of arms shipments between the two countries.[68]

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[68] Williams, Economic Foreign Policy of the United States,

President Coolidge further issued a corrolary to the Monroe Doctrine which declared that the persons and property of American citizens, even abroad, were a part of the general domain of the nation and enjoyed unlimited protection from the United

States.[69] President Coolidge also in his message to the Uni-

[69] Gómez Robledo, Etopeya del Monroismo, 110. The occasion was a speech by Coolidge before the United Press Association, April 25, 1927. For context, see Foreign Relations 1927, III, 209-220.

ted States Congress on intervention in Nicaragua declared that Mexico had aided the revolutionists in Nicaragua and had refused to follow United States policy in regard to the embargo of arms to Nicaraguan revolutionists.[70] Under the circum-

[70] Foreign Relations 1927, III, 294. See also Ludwell Denny, We Fight for Oil, 70.

stances the well-known work of Ambassador Morrow was carried to fruition and the petroleum law was amended in 1928, eliminating American objections to its provisions.

New capital flowed again into Mexico after the Morrow-Calles agreements.[71] Oil production, however, did not increase

[71] Standard Oil of New Jersey, Present Status, 37.

but declined from 1,125,000 metric tons in 1926 to 798,000 in 1927 to 624,000 in 1928.[72] The production of refined petroleum

[72] League of Nations, Monthly Bulletin of Statistics, XVIII, 541. See also Manterola, La Industria del Petróleo en México, 49.

products, however, increased from 48% of crude output in 1924 to 65% in 1927,[73] with gasoline production rising from 13,662,000 barrels in 1923 to 15,222,000 barrels in 1926.[74] In fact, Mexico contained in 1925 two of the largest refineries in the world, having respectively a daily capacity of 113,220 and 140,000 barrels. There were also eight primary plants, for separating light hydrocarbons from fuel oil, having a total capacity of 268,042 barrels daily and six other refineries with a daily capacity of 192,285 barrels. In all there were nineteen Mexican plants of all types for refining purposes with a total capacity of 461,390 barrels daily.[75]

[73] Manterola, La Industria del Petróleo en México, 135.

[74] United States Tariff Commission, Mining and Manufacturing Industries in Mexico 1946, p. 52.

[75] Ortega, Los Recursos Petroliferos Mexicanos y Su Actual Explotación, 10.

Mexican crude production came from only 14,820 acres out of an estimated area of probable oil land of 14,820,000 acres. The industry represented a capital of 836,366,940 pesos ($406,002,369 U.S.) in July, 1926, of which 57% was American, 25% English, 11% Dutch, and 4% Mexican.[76] On heavy crude the

[76]Secretaría de Industria, Comercio, y Trabajo, La Industria del Petróleo, 22-23. See also Leven, Done in Oil, 205.

industry in 1926 paid a production cost, including transportation and taxes (20% of value), of ninety cents a barrel and sold the crude at $2.30 (U.S.) a barrel for a profit of 100%.[77]

[77]Secretaría de Industria, Comercio, y Trabajo, La Industria del Petróleo, 22-23.

The Mexican Petroleum Company expanded its capital investment from 1922 to 1927 by $9,500,000 (U.S.) while profits in the same period averaged annually $11,500,000 (U.S.).[78]

[78]Howland (ed.), Survey of American Foreign Relations, 162.

The application of the law of 1925 resulted in oil company complaints that the government meticulously examined applications for confirmatory concessions and checked closely on the maintenance of works necessary to hold them, with the sole object of declaring the concession void on any pretext and restoring the land to the national reserves.[79] Requests

[79]Huasteca Petroleum Company y Standard Oil Company of California, Expropiación: Un Estudio de los Hechos, Causas, Métodos, y Efectos de la Dominación Política de la Industria en México, 12.

for concessions often were long delayed and 424 such requests covering six million acres were never acted upon.[80] On the other hand under the law of 1925 concessions were issued to confirm subsoil rights in 6,226,063 hectares (15,565,157 acres) of partially depleted oil lands and lands of surface owners. New concessions issued under the law covered an additional 2,490,902 hectares (6,227,256 acres) of which 1,565,683 hectares (3,914,207 acres) were in the hands of producing companies.[81] The Mexican government also found the enforcement of the petroleum law of 1925 unsatisfactory, coming to regard it as contrary to the intention of Article 27 since it permitted enormous concentrations of land to be acquired without their being worked.[82]

[80] Standard Oil of New Jersey, Present Status, 35.

[81] Association of Petroleum Producers, Current Conditions in Mexico, mimeograph, 37.

[82] Informe del C. Presidente de la República Gral. Lázaro Cárdenas al H. Congreso de la Unión, Septiembre 1, 1935, p. 23.

The Mexican government after 1926 began a program to exploit the oil reserves of lands unquestionably under governmental control, the lands included in an area one hundred kilo-

meters wide at the land frontiers and fifty along the sea shore, the federal zones, lands not affected by concessions of any type, and the right-of-way of the railways. The first institution to exploit these lands was only a department in the Ferrocarriles Nacionales but in December, 1925, it was cut off from the railways and established as the Control de Administración del Petróleo Nacional.[83]

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[83] Informe Que Rinde a la Junta Federal, I, 22.

As Mexican production continued to decline (dropping to 50,150,610 barrels in 1928),[84] the government declared that

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[84] Manterola, La Industria del Petróleo en México, 17.

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the oil companies were restricting their activities in order to maintain their privileged situation by bringing economic pressure on the government so that it would have to break its own laws and principles.[85] Since the growth of American pro-

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[85] Secretaría de Industria, Comercio, y Trabajo, La Industria, el Comercio, y el Trabajo, I, 429.

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duction had made Mexican oil less essential to the companies, they could afford to cut their production in Mexico.[86] Mexico

[86] Ibid., I, 430.

already in 1928 had arrived at the position where her resources of oil were no longer of major importance to the world and was approaching the time when foreign capital was more important to Mexico than Mexico was to foreign capital.[87] Capital

[87] Denny, We Fight for Oil, 90.

invested in the Mexican oil industry in 1928 was about 877,000,000 pesos ($424,637,681 U.S.) with the lands on which the companies operated having a value of 550,000,000 pesos ($265,700,483 U.S.).[88]

[88] Secretaría de Industria, Comercio, y Trabajo, La Industria, el Comercio, y el Trabajo, I, 435-456.

The retrenchment of the oil industry in Mexico was typified by the action of the board of directors of El Aguila in 1928. It was announced in London that to avoid multiple imposts part of El Aguila's assets were to be divided and transferred to a Canadian Company. The assets transferred included El Aguila's interest in the Eagle Oil Transport Company, its interest in the Anglo-Mexican Petroleum Company, its loans in pound sterling to these companies, British government bonds

and cash available in England. The stock value of El Aguila was reduced from ten pesos per share to four, a total capital reduction of 106,387,746 pesos.[89] It was also announced that

[89] J. Silva Herzog, Petróleo Mexicano: Historia de Un Problema, 114. Hereafter cited as Silva Herzog, Petróleo Mexicano.

El Aguila's activities in Mexico would be reduced in the future and that all of its foreign operations would be carried on through the Canadian subsidiary of Dutch-Shell, the Eagle Oil and Shipping Company of Canada.[90] In Mexico El Aguila's

[90] Ibid.

major property in 1928 consisted of four refineries with a daily capacity of 155,000 barrels and 240 miles of pipelines, along with its land holdings.[91]

[91] Ise, The United States Oil Policy, 455.

The exploratory work of the oil companies, according to Silva Herzog, had not utilized scientific means of discovery until 1929 and Poza Rica was discovered shortly afterward; the oil companies had extracted oil with criminal carelessness for fifteen years prior.[92] Still fourth largest producer of

[92]Silva Herzog, Petróleo Mexicano, 88.

oil in the world in 1929 with 44,687,887 barrels, Mexico was hit, as the rest of the world, by the economic crisis of the 1930's. Her trade with the United States collapsed, dropping from $252,000,000 (U.S.) in 1929 to $68,000,000 in 1933 while oil production fell to 34,000,000 barrels.[93] Of this amount,

[93]United States Tariff Commission, Mining and Manufacturing Industries in Mexico, 4. See also Manterola, La Industria del Petróleo en México, 97.

El Aguila produced 10,600,612 barrels of oil products in 1931 and exported 8,975,264 while Huasteca produced 3,422,911 barrels and exported 1,587,690 barrels. Over 40% of Mexico's oil exports went to the United States in the period 1931-1932 while England was the leading importer in 1934-1935.[94] The number

[94]Salvador Dorantes, La Industria Petrolera en México, appendix. See also Manterola, La Industria del Petróleo en México, 243, 247.

of operating refineries declined to five, having a daily capacity of 195,000 barrels in 1930.[95] Even the agrarian reform

[95]United States Tariff Commission, Report to the House of Representatives on the Cost of Production of Crude Petroleum, Gas, Oil, and Fuel Oil, Gasoline and Lubricating Oil Produced

in the United States and in Specified Foreign Countries, Report no. 30, Second Series, 66. Hereafter cited as United States Tariff Commission, Report to the House of Representatives.

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policy of the revolution was declared a failure by Calles himself.[96] What appeared to be the end of struggle with the oil

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[96] Thomson, "Mexico's Social Revolution," in Foreign Policy Reports, XIII, 114.

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companies and foreign investors in Mexico was, however, deceptive. A new labor movement was a factor in the revived struggle for revolutionary reforms.

In the Constitution of Querétaro Article 123 gave constitutional guarantees to labor which made it one of the most advanced, from labor's standpoint, in the world. The Mexican government in 1931 enacted statutory law defining labor's rights under Article 123, particularly in regard to capital-labor disputes involving "economic conflict."[97] After the

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[97] Person, Mexican Oil, 30. Economic conflict resulted when the employer declared himself unable economically to meet labor demands.

Federal Labor Law of 1931, labor's influence increased and opposition to Calles became strong enough to break the power of the old labor organization, the Confederación Regional Obrera Mexicana (C.R.O.M.) which had been led by Luis Morones

and supported by Calles.[98] One of the leaders breaking away

[98] Ibid., 32. Morones was Calles' Secretario de Industria, Comercio, y Trabajo. See also Weyl, Reconquest of Mexico, 235.

from the C.R.O.M. was Vicente Lombardo Toledano who founded his own labor group and who believed in the rise to power of labor by revolution.[99] With the militance of this union, a

[99] Weyl, Reconquest of Mexico, 236.

new factor entered the traditional opposition between oil companies and the Mexican government.

The Mexican government in 1933 decreed that oil lands which recovered their free character for any reason would be restored to the national reserves; on such lands the government itself could exploit petroleum as producer whereas it could not on lands under concession.[100] The law provided for

[100] Sindicato de Trabajadores Petroleros, La Cuestión Petrolera, 49.

a Mexican company to regulate the internal oil market, to assure the reserves of the country, and to facilitate the development of Mexican technicians. The company was given the power to explore and exploit oil lands, to carry on all the operations related to oil production, and to encourage the in-

vestment of Mexican capital in the industry.[101] A refinery

[101] Gobierno de México, El Petróleo de México, 557. Drilling of new wells had dropped to fifty in 1932. See Manterola, La Industria del Petróleo en México, 50.

operated by the governmental agency, Administración del Petroleo Nacional, was used in 1933 to check costs of production. In a small refinery with little capacity it was found that the cost of producing one hundred liters of refined petroleum products was 1.577 pesos which quantity when sold brought 1.878 pesos, a profit margin of 19%.[102] The net production cost

[102] Manterola, La Industria del Petróleo en México, 149.

(average 1927-1930) of a barrel of crude oil at the well in the United States was $1.07, including royalty and 6% interest charges; the average selling price for the same period was $1.22 (U.S.), an average profit of 14% on crude produced in the United States. The average cost of Mexican crude, including interest (1927-1930), was .5779 (U.S.) per barrel; delivered at the Atlantic coast of the United States the oil brought $1.40 (U.S.) per barrel, a margin of 133%.[103] Exported

[103] United States Tariff Commission, Report to the House of Representatives, 180-181.

petroleum in 1933 paid about 25% of its value in taxes; petroleum products internally consumed paid taxes amounting to about one third their value.[104] The taxes paid by the oil companies

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[104] Association of Petroleum Producers, Current Conditions in Mexico, mimeograph, 39.

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to the Mexican government amounted (1934) to an average of 1.05 pesos (0.29 U.S.) per barrel. (In the United States the average tax per barrel was $1.14 U.S.).[105] The average salary

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[105] Secretaría de Relaciones Exteriores, El Gobierno de México ante los Problemas Sociales y Económicos: La Cuestión Religiosa--Respuesta del Ejecutivo al Memorial de las Clases Patronales--La Situación Económica Mejora, 34. Hereafter cited as Secretaria de Relaciones Exteriores, El Gobierno de México ante los Problemas Sociales y Económicos.

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paid to oil workers in Mexico in 1934 was 4.68 pesos (1.30 U.S.) whereas in the United States the average oil workers was $4.50 (U.S.); the oil companies of Mexico were earning 3.3% on their investment at a time (1933) when American oil companies were making 1.6%.[106] Capital invested in the Mexi-

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[106] Ibid., 34-35.

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can oil industry in 1933 was estimated at 960,000,000 pesos ($271,954,674 U.S.), 52% in American capital.[107]

[107] Gómez Robledo, The Bucareli Agreements, 97.

The presidential election of 1934 in Mexico was conducted upon a platform adopted in December, 1933, by the victorious party, the Partido Nacional Revolucionario (P.N.R.). Pertinent sections of the Six Year Plan included such declarations as:[108]

> Faced with the struggle of classes inherent in our system of production, the duty of the government is to strengthen the unions of the working classes.... The necessity of making of our country a coordinated organization in its own economic system, which guarantees adequate support to its inhabitants, is not the result of an impulse of merely sentimental nationalism, but a consequence of the transformations working in the economic structure and in the commercial relations of all countries.... The National Revolutionary Party declares that during the six years which the present plan covers, the government shall regulate those activities of exploitation of the natural resources and the commerce in the products which signify an impoverishment of our territory, in the following manner:
> I. The nationalization of the subsoil will be made effective;
> II. Known reserves of minerals will be fixed which will guarantee the future reserves of the nation....
> IV. The monopoly of lands will be avoided and the national zones of petroleum reserve shall be increased so that for all time a fixed reserve of oil lands can be depended on to cover the future necessities of the country. It is besides necessary that those commercial activities or productive activities which exercise, as has been said, an exhaustive action upon our natural resources, shall be regulated by the action of the state in such manner that in the process of their development our country obtains the greatest participation possible from the riches exploited, since in many cases the form in which this impoverishment by industry of our soil has been carried on and is carried on is of such nature that Mexicans only take part in it as workers at a low salary, and the country derives no more benefit than a penurious tribute. For this object:
> 1. Foreign companies shall be impeded from continuing monopolizing mineral deposits....

5. The state shall intervene to restore the equilibrium of the economic forces in the oil industry, stimulating the development of the national companies and creating semi-official organizations of aid and regulation;
6. The state shall study the means by which our oil production can attain the volume which rationally corresponds to it, considering the probable existing reserves;
7. The present regulation of concessions shall be modified, reducing in the future the surface each concession covers. Those opposed to the national interest shall not be granted.

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[108] Plan Sexenal del P.N.R., 46-56.

In his speech accepting the nomination of the P.N.R., Lázaro Cárdenas declared:[109]

> I declare without subterfuge that I shall assume total official responsibility for the government if I arrive at presiding over it.... The essential thing in order to realize in their integrity the social postulates of the General Constitution of the Republic and the formula of social coordination contained in the program of government of the Partido National Revolucionario ... consists in making veritable a true revolutionary interpretation of the laws, by men who sincerely feel the revolution. ... in these moments of crisis--in which International Law may be obliged to take very definite vagaries in accord with the dignity of nations--our international relations will be cultivated upon the basis of security of close and generous ties; now it may treat of people to whom interests of blood and race tie us, or of peoples to whom we are joined by economic and commercial interests; then along these lines we shall always be capable of assuming clear attitudes which will not menace the national dignity nor oblige us to betray the spirit of social evolution which animates our people.

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[109] Ibid., 110-113.

In the presidential campaign of 1934, Cárdenas declared

that he wanted to place the sources of wealth and the means of production in the workers hands, to end the further exploitation of the subsoil by usurious foreign capitalists, and to let such exploitation be done by Mexico herself.[110] Cárdenas

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[110] Standard Oil of New Jersey, The Reply to Mexico, 31.

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declared in Vera Cruz during the campaign that the workers must organize to force him or any citizen in power to satisfy the needs of the people.[111] At his inauguration Cárdenas an-

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[111] Virginia Prewett, Reportage on Mexico, 94.

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nounced his adherence to the Six Year Plan, six years of reform and nationalization.[112]

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[112] Standard Oil of New Jersey, Present Status, 35.

Adherence to the Six Year Plan meant an effort to improve the semi-colonial position of Mexico economically and to protect her resources against undue exploitation. It meant the enforcement at long last of Article 27 until it became an integral reality in social affairs, the nationalization and socialization of land, the support of the worker against those who possessed the instruments of production.[113] The govern-

[113] W. W. Cumberland, R. A. McGowan, Joseph Thorning, Ramón Beteta, Programa Económico y Social de México, 200. See also Ramón Beteta, The Mexican Revolution, a Defense, 39-42.

ment never concealed its intention to redistribute wealth. Successful completion of the Six Year Plan signified the achievement of scientific socialism in Mexico and such success was probable if friction with capitalistic imperialism did not, as it easily could, end the effort, or even the existence of Mexico.[114] The customary threat to Mexican independence of

[114] Ramón Beteta, The Mexican Revolution, a Defense, 45. See also Benito X. Perez-Verdía, Al Margen del Momento Actual, 34.

action was not so feared by Mexico in 1935, for as Cardenas declared before a mass meeting of labor:[115]

> The United States will not intervene in our internal affairs, first, because with its Good Neighbor Policy it has given us many proofs of the respect it feels for the sovereignty of other countries and second, because it is profoundly concerned with meeting the problems that have arisen within its own territory.

[115] Prewett, Reportage on Mexico, 97.

Within Mexico opposition to the new program came from Calles and the Callistas who, according to Virginia Prewett, had direct and indirect interests in the foreign-owned oil

companies.[116] Calles was removed as an influence on Mexican

[116] Ibid., 116.

government in 1935 and exiled. In the tense situation preceding the overthrow of Calles an organization of laborers, led by the electricians union, was formed to defend Mexico City and Cárdenas against a possible military coup by Calles. A permanent worker's organization resulted from the unity in 1936 with the organization of the Confederación de Trabajadores Mexicanos (C.T.M.) in which Vicente Lombardo Toledano dominated. The new labor group included the big industrial unions in the railway, mining, power, and oil industries, the workers in printing, sugar, and the shop unions of Mexico City and Puebla, and small factory and craft unions along with agricultural workers, artisans, teachers, and the self-employed and some professionals. Its membership grew rapidly until it numbered six hundred thousand by 1938.[117] The strength of the

[117] Person, Mexican Oil, 32-47. See also Weyl, Reconquest of Mexico, 237-238.

movement was great since in 1935 only 215,003 workers were employed in manufacturing industries with a productive value of over ten thousand pesos a year. Of these 15,255 were employed by the oil industry, or primarily by the foreign oil companies.

In mining, also predominantly foreign, some 42,442 (1934) were employed.[118] The power of the labor movement lay not only in numbers but also in arms, for the members of C.T.M. were armed and organized into semi-military units.[119]

[118] Weyl, Reconquest of Mexico, 229. See also Manterola, La Industria del Petróleo en México, 68, and Bahamonde, México Es Así, 150.

[119] Shepardson and Scroggs, United States in World Affairs: 1938, p. 230.

President Cárdenas turned his attention to the oil industry in his annual address to the Mexican Congress, September 1, 1935, when he declared:[120]

> The application of the Petroleum Law of 1925 has shown no proper correspondence to the fundamental principles of Article 27. It permits enormous concentrations of land under a single title. The law in general facilitates the acquitions of enormous extensions of land without their being worked. Since the exploitation of oil in Mexico is entirely in the hands of the foreign companies, public economy depends on them and their foresight. Since it is certain that if they found it unseasonable they would resolve not to put more oil in the commerce of the country, the state should have the power legally to force them, in proportion; no one can be sure that the deposits which the companies are exploiting can satisfy the necessities of the country during the time required to discover other wells. Since Mexican petroleum does not really exist due to foreign exploitation, it has been thought wise to initiate by means of a company completely Mexican the exploitation of Mexican oil and its derivatives with the end of regulating the interior market of the country and to satisfy the needs of consumers.

[120] Informe del C. Presidente de la República Gral. Lázaro Cárdenas al H. Congreso de la Unión, Septiembre 1, 1935, p. 23-24.

The new company was another semi-official corporation, Petróleos de México, S.A., which competed with private companies in production and marketing and which was empowered to absorb all leases and concessions as they expired. In 1937 it was reorganized and permitted to regulate the domestic and export markets in the interest of the nation.[121] The price of

[121] Weyl, Reconquest of Mexico, 291.

domestically consumed gasoline also was fixed by the government in September, 1935.[122] Two months later figures were released by the Departamento del Petróleo comparing the earnings and productivity of Mexican and American oil workers and the taxes paid by the industry in Mexico and in the United States.[123]

[122] Donald R. Richberg, The Mexican Oil Seizure, 24.

[123] Gustavo Ortega, "Antecedentes y Culminación del Conflicto Petrolero en México," in Revista de Industria, I, 8-9.

The government pointed out that taxes per barrel in Mexico in

1935 were at most 1.182 pesos while in the United States they equalled 4.104 pesos. The average royalty paid per barrel in Mexico by El Aguila was 0.18 centavos per barrel while in the United States the royalty paid averaged in 1935 about 0.60 centavos.[124] The finger pointed at the disparity was significant,

[124] Informe Que Rinde á la Junta Federal, II, 471-472. See also Gobierno de México, El Petróleo de México, 269-270.

for in the same year the Secretaría de Trabajo ordered more uniform procedure to be followed in the oil fields in regard to standardized pay schedules among the different oil companies for the same work.[125] The issue had been precipitated by a

[125] Weyl, Reconquest of Mexico, 293. See also Salamón de la Selva, "Chronicle of Events Leading to the Expropriation of the Foreign-Owned Oil Industry by the Mexican Government," in Party of the Mexican Revolution, Foreign Information Service, Press Release 1, May 1, 1938, p. 5.

strike at El Aguila in 1934 which had been arbitrated by President Rodríguez and as a result of which regional commissions of three consisting of a federal labor inspector, a representative of the labor union, and one of the company involved, had been established.[126] The numerous unions of the oil indus-

[126] Person, Mexican Oil, 48.

try--twenty-one in number--were called together after the

Secretaría's order and joined into one large national union, El Sindicato de Trabajadores Petroleros. It was this union which in 1936 presented the whole oil industry with the uniform contract which led to the final episode in the controversy between the Mexican government and the oil industry.[127]

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[127] Weyl, Reconquest of Mexico, 293. See also De la Selva, "Chronicle of Events Leading to the Expropriation of the Foreign-Owned Oil Industry by the Mexican Government," in Party of the Mexican Revolution, Foreign Information Service, Press Release 1, May 1, 1938, p. 5.

The Mexican oil industry at that date consisted of only 1014 producing wells, flowing at a rate of 43,999,776 barrels per year. New drillings were limited to eighty wells in 1935 and only sixty-seven were put down in 1936.[128] Some forty-

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[128] Gobierno de México, El Petróleo de México, 110-112.

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four oil fields were in operation in 1935, supplying nine refineries representing a capital investment of $102,900,000 (U.S.) and a productive value of $96,300,000 (U.S.). The industry was still highly profitable, for in 1935, although capital invested in Mexican oil was only 0.73% of the amount invested in American oil, production in Mexico was 4.05% of American production.[129] The value of the investment in Mexican

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[129] United States Tariff Commission, Mining and Manufacturing Industries in Mexico, 51.

oil fields, refineries, and pipelines in 1935 was estimated at one hundred million dollars (U.S.) of which $49,000,000 was American and $41,000,000 British. A Mexican estimate of December, 1936, valued the capital investment at 993,018,708 pesos, or, including the capital in lands at 108,000,000 pesos, at 1,101,018,708 pesos ($305,838,530 U.S.).[130] Oil products exported in 1935 amounted to 22,445,972 barrels of which 38% was crude oil. The United States imported 21% of the Mexican oil exports while England took 37.7% and Germany 9.5%. El Aguila handled 61.64% of the total quantity exported; Huasteca exported 20.18%.[131]

[130] Thomson, "The Mexican Oil Dispute," in Foreign Policy Bulletin, XVII, 131. See also Bahamonde, México Es Así, 136, and Ortega, "Industria del Petróleo: La Industria Petrolera Mexicana, Sus Antecedents y Su Estado Actual," in Revista de Industria, I, 39.

[131] Gobierno de México, El Petróleo de México, 146. See also Ortega, "Industria del Petróleo: La Industria Petrolera Mexicana, Sus Antecedentes y Su Estado Actual," in Revista de Industria, I, 15, 35.

The intensification of the attention given to the oil industry was not the only indication of a return to a governmental policy of active change along the lines drawn by Article 27 of the Mexican constitution. Cárdenas assigned 15,620,930 acres of farm lands to small laborers in 1935-1936, three fourths as much as previously had been granted in twenty years.[132]

[132]Thomson, "Mexico's Challenge to Foreign Capital," in Foreign Policy Reports, XIII, 127.

When workers in 104 plantations in the Laguna area of Chihuahua and Durango struck in August, 1936, demanding wage increases, housing, and unionization, Cárdenas ordered the land expropriated and divided among the workers in ejidos.[133] Labor unrest

[133]Ibid., XIII, 128-129.

was illustrated by the rise in the number of strikes from an average per year, 1931-1934, of seventy to 642 in 1935 and 674 in 1936.[134] That the attitude of the government was toler-

[134]Secretaría de la Economía Nacional, Anuario Estadístico 1939, pp. 330-333

ant toward militant labor was clear from Supreme Court Justice Xavier Icaza's statement that mankind contained two categories, those who worked and those who did not, and that it was the duty of the law and the judge to protect the weaker of the two.[135] President Cárdenas had already announced in 1936 that

[135]Weyl, Reconquest of Mexico, 240.

union demands should be limited only by the economic capacity

of industry, which declaration was clarified in a reply of Cárdenas to a memorial from representatives of banking, industry, and commerce which asked what the President meant by the earlier statement. Cárdenas answered:[136]

> The authorities have not had the cooperation either of industry, of banks, or of commerce. It must be considered in the fullest sense that the administration of the factories, immovable property, and capital are integrated in the body of the national economy and the social interest is hurt when proprietors abstain from exercising their functions correctly. It is then when the government must intervene to avoid upsets in the economy. This is the sense of my declaration in Monterey.... If banks and industries exist, it is because a market permits profits. An abstention, an employer's boycott of any magnitude, would demand the intervention of the state by perfectly legal routes to prevent a disturbance in the economic life. The most that could result would be that certain branches would pass from the orbit of private interests and be converted into social service.... Because as a revolutionary I know in which circumstances explosions of popular sentiment are incubated, I recommend that the employer-class comply with the law in good faith, cease intervening in the organization of the workers, and give them the economic well-being to which they have a right within the maximum economic possibilities of the business. Oppression, industrial tyranny, unsatisfied needs and opposition mal encanzada are explosives which in a particular moment could cause the violent upset so feared by you.

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[136] Secretaría de Relaciones Exteriores, El Gobierno de México ante los Problemas Sociales y Económicos, 16-21.

Not long afterward the expropriation law of November, 1936, was enacted by the Mexican Congress, and in January, 1937, the constitutional term of Supreme Court Justices was reduced to six years, identical to that of the president.[137]

[137] Standard Oil of New Jersey, Present Status, 36.

In the United States Franklin Roosevelt had been overwhelmingly re-elected and the Buenos Aires Conference had been called in an effort to strengthen inter-American unity in the event of a general European war. To achieve such harmony the United States unequivocably abandoned the right of intervention in Latin America and the unilateral interpretation and enforcement of the Monroe Doctrine.[138] The conjunction of events presented

[138] J. Lloyd Mecham, "The Inter-American Peace Machinery," in S. D. Meyers (ed.), International Institutions and World Peace, Proceedings of the Fourth Annual Conference Institute of Public Affairs Auspices Carnegie Endowment for International Peace. Dallas, Waxahachie, Denton, Fort Worth, 1937, pp. 280-282.

Mexico with a rare situation and a new opportunity.

CHAPTER X

THE OIL WORKERS' STRIKE OF 1937

According to Molina Enríquez, Mexico struggled from 1928 to 1938, following the end of the dispute over oil concessions to the subsoil, to better the condition of labor by controlling the economic and social conditions of industry.[1] Militant labor began to affect the oil industry in the 1930's. The industry contained thirty-five independent oil workers unions in 1934 but not a single oil company was organized by union labor until 1935.[2] At that time different contracts existed at each refinery and even within the same refinery; there were such contracts with fifteen of the principal oil companies and three shipping companies.[3] A convention of the separate unions

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[1] Enríquez, Problemas Internacionales, 58.

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[2] José Jorge March, "Mexico and Oil," in Labour Monthly, a Magazine of International Labour, XXI, 171. See also Silva Herzog, Petróleo Mexicano, 99, and De la Selva, "Chronicle of Events Leading to the Expropriation of the Foreign-Owned Oil Industry by the Mexican Government," in Party of the Mexican Revolution, Foreign Information Service, Press Release 1, May 1, 1938, p. 5.

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[3] Shepardson and Scroggs, The United States in World Affairs: 1938, p. 231. See also March, "Mexico and Oil," in Labour Monthly, a Magazine of International Labour, XXI, 171.

was called to organize the oil workers' union in 1935 and at the first convention of the union in 1936 a general contract for the whole industry was prepared.[4] El Sindicato de Traba-

[4] March, "Mexico and Oil," in Labour Monthly, a Magazine of International Labour, XXI, 171.

jadores Petroleros was affiliated with the Confederación de Trabajadores Mexicanos (C.T.M.) and the new contract was mailed to the general managers of most of the oil companies, arriving in November, 1936, at almost the same time the expropriation law was passed by the Cámara de Diputados.[5] Covering 165

[5] William E. McMahon, Two Strikes and Out, 73.

pages, the contract was accompanied by the threat of an industry-wide strike if it were rejected.

In the proposed contract confidential, i.e., non-union, positions consisted almost only of the presidents, vice-presidents, chiefs of various departments, general accountants, auditors, sales managers, refinery superintendents, chief geologists, field superintendents, and heads of legal departments. All workers at the service of confidential employees were to be union men. Seniority was declared a property right of the worker and workers promoted should have the right to an investigation by the union before being declared incompetent by the

company. In the event of staff reductions, non-union men were to go first and then those with least seniority unless the company and the union agreed otherwise. The companies were obligated to suspend any worker the union desired to discipline. Whenever a man was suspended from the union, his dismissal could be requested and the companies were obligated to fire him at once without indemnity. The workers were to report at the place designated as the starting point and should end the working day at the same place. All time exceeding the ordinary working day should be paid at overtime rates. Eating places for workers should be established where needed, with heating facilities for food preparation. When a legal holiday corresponded with a rest day the workers should be paid for both. Pregnant women employees were to have fifteen days rest before and forty days after child-birth, with all medical services furnished by the companies. The companies should pay double time for work in mud or swamps, rain, or loose asphalt, acid plants, heating and refigerating parts of paraffin plants, tank cars, handling of sulphur, soda, lime, cement, or explosives. Triple wages were to be paid workers in ethyl plants, in swamps deeper than thirty centimeters, in warehouses with inflammables, for handling dynamite, tetraethyl lead, or petroleum gas. Double time was to be paid for handling Fuller's earth, gasoline, naptha, or for working over seven meters high. No movement or change of residence of workers should be made unless the worker had been notified sixty days in advance.

The companies were to agree to furnish medical, surgical, dental-surgical, pharmeceutical, orthopedic, prothetic, laboratory, ambulance, and hospitalization services; to establish the necessary sanitaria, maternity wards, and clinics; and to establish a tubercular sanitarium. Workers and their families (including wife or mistress, ascendents in direct line without limitation and also decendents, brothers under eighteen and sisters, provided they were economically dependent) should be entitled to all the services. The companies were to establish a vocational institute for disabled workers. Hot and cold shower baths were to be established within sixty days in each department where needed, as should toilets. Distilled water was to be supplied for drinking. Disabled workers with thirty years seniority should retire at full pay; after twenty years, disabled workers should retire at 80% of full pay; and after ten years at 60%. Non-disabled workers followed the same schedule after twenty years service. Workers with from one day to five years service should have twenty-one days vacation; from five to ten years, forty days; ten to fifteen years, fifty days; and over fifteen years, sixty days. The companies were to furnish the worker first class transportation, round trip, to the vacation spot chosen by the worker. Leaves of absence, with full pay, were to be granted workers to discharge union commissions. The companies were to be obligated to furnish fifteen office workers to the General Executive Committee of the oil union and sixty-one workers for union sections. All

workers were to be entitled to three days leave with pay whenever it was necessary. The companies were asked to create a savings fund made up of a 10% deduction from workers salaries, plus 15% of the whole salary to be deposited by the company, which was also to pay 6% interest on the total. The companies were to be obligated to furnish hygienic housing without cost to all workers and until the housing was available, workers should be paid two pesos per day compensation. Houses were to have two, three, or four bedrooms, bath, kitchen, dining room, wash-space, etc. Private, comfortable rooms were to be furnished for bachelors. The companies were asked to furnish quarters and books for union libraries and fifty pesos monthly for their upkeep. The companies were to install in labor centers fields and gymnasia for sports and to furnish equipment for them plus 250 pesos per month for administration. Dismissed workers were to receive transportation to places they requested. The companies were obligated to furnish transportation to workers and their families from labor centers to the city, and permit workers on leave or vacation to use company railroads and vessels in Mexico or abroad. The same privilege was to apply to members of workers' families when so requested by the union. The companies were to sell to workers their products at a 10% discount. Seven kilos of ice were to be furnished to each worker's home daily. The companies were asked to furnish instruments and uniforms for workers' bands as well as to pay a bandmaster. The companies also were to

furnish one vehicle for each union section.[6]

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[6] Project of Approved General Contract at the First Grand Extraordinary Convention of the Syndicate of Petroleum Workers of the Mexican Republic, November 3, 1936, typescript, 4-74.

The oil workers' demands permitted any one company a minimum of confidential employees, plus an unlimited number of legal representatives. All other employees were to be unionized. In case of lay-offs, an indemnity of ninety days pay plus twenty-five days wages for each year of employment was to be paid. Workers voluntarily leaving employment after ten years service were to be paid twenty-five days wages for each year. Establishment of a forty-hour week was demanded. Death from occupational causes was to pay an indemnity of 1400 days wages. Death from non-occupational causes received an indemnity of sixty days wages and funeral expenses, in addition to twenty-four days indemnity for each year employed. For permanent disability an indemnity of 1825 days wages plus twenty-five days for each year of service was to be paid. If employed more than ten years, the disabled worker was to receive a pension on the terms previously mentioned. Eighteen rest days a year and forty-five scholarships for workers' children were demanded along with an opportunity for Mexicans to acquire experience in the industry as technicians.[7]

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[7] Workers University of Mexico, The Oil Conflict in Mexico, 11-13.

The total increased cost for labor under the proposed contract was estimated at 65,474,840 pesos, of which only 28,149,360 pesos were for wage increases. Added to existing labor costs, the proposed contract would have raised company expenditures for labor annually to 114,611,460 pesos.[8] The management of the companies rejected the contract outright, claiming that it would have raised company costs for labor and social benefits 500%, whereas the union calculated that it would increase company expenses in that respect only 133%. It was certain that the proposed contract contained demands above the economic possibilities of the companies, but it was also certain that the companies did not sincerely try to avoid the conflict that followed.[9] After ten days of waiting, the union called a general strike in the oil industry for November 27, 1936, but President Cárdenas intervened, requesting that the strike be postponed six months while the companies and the union negotiated a settlement under the leadership of the

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[8] March, "Mexico and Oil," in Labour Monthly, a Magazine of International Labour, XXI, 175.

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[9] Gobierno de México, El Petróleo de México, 521. "Petromex," the semi-official oil company, signed a contract on November 17, 1936, with a section of the oil workers union raising wages 40%. See National Revolutionary Party, Foreign Information Bureau, The Mexican News Letter, November 21, 1936. Hereafter cited as The Mexican News Letter.

government. The action was in accord with the announced policy of Cárdenas to use the government as the arbiter and regulator of social existence.[10] When negotiations threatened to

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[10] Policies of the Present Administration of Mexico, 28. See also Thomson, "The Mexican Oil Dispute," in Foreign Policy Bulletin, XIV, 123, and March, "Mexico and Oil," in Labour Monthly, a Magazine of International Labour, XXI, 171.

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break down in February, 1937, Cárdenas again intervened, promising to promulgate any contract reached by the conferees and make it compulsory. A four-month time limit was set for the negotiations to reach completion.[11] As the months passed, ne-

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[11] The Mexican News Letter, February 3, 1937.

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gotiations on the contract had produced agreement on only twenty-one clauses out of 250 in the contract and the companies then presented their last proposal for settlement of the dispute.[12] According to this plan, the offer of the companies

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[12] March, "Mexico and Oil," in Labour Monthly, a Magazine of International Labour, XXI, 171. March declared that the companies, during the six months, broke seventeen local agreements secured by aggressive union leadership prior to the dispute and that they provoked strikes in an effort to alienate public opinion from the laborers. See ibid., 172. See also De la Selva, "Chronicle of Events Leading to the Expropriation of the Foreign-Owned Oil Industry by the Mexican Government," in Party of the Mexican Revolution, Foreign Information Service, Press Release 1, May 1, 1938, p. 5.

compared with the 1936 salaries of the workers as follows:[13]

Wages Unskilled Labor	1936	Offer 1937
Basic wage (coast)	3.30 - 3.75 pesos	5.00 - 5.60
Pay on rest days	.67 - .77	2.00 - 2.24
Savings fund	.20 - .23	.70 - .78
Vacations	.30 - .34	1.22 - 1.35
Housing		.70 - .70
Total cash for eight hour day	4.47 - 5.09	9.62 -10.67
Social benefits	.22 - .24	.36 - .40
Total effective pay	4.69 - 5.33	9.98 -11.07

[13] Compañía Mexicana de Petróleo, "El Aguila," et. al., The Mexican Oil Strike of 1937: The Decision of the Labour Board, appendices ii and iii.

The salaries offered to the workers by the companies would have meant an increase of 9,500,000 pesos the first year in total cost of production, including 3,500,000 pesos for retroactive salary payments. To the workers of the coast were offered substantial raises and office workers were offered an average salary of 425.08 pesos per month. The number of permanent workers the contract purposed to cover was 8,284. It proposed to expend a total of 12,750,496.28 pesos for salaries in 1938 and 6,703,095.68 pesos for rest days, vacations, etc.; 1,556,291.21 pesos for the savings fund at 8% interest; 2,047,650.00 pesos for pensions; 273,372.00 pesos for overalls and laundry. The total was an increase of 23,330,905.17 pesos per year for the workers. The average expenditure by the companies per worker in 1938 was to be 2,816.38 pesos; per month the average worker was to receive 234.70 pesos; per day of

eight hours, 10.90 pesos. In addition 98.48 pesos for medical expense were to be spent per worker in 1938 and 16.94 pesos for general and cultural benefits, to bring the annual average salary to 2,931.80 pesos, or an average daily salary of 11.35 pesos.[14]

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[14] Proyecto Patronal de Tabulador de Salarios Que Se Presenta á la Asemblea Obrero Patronal Que Discute el Contrato General Obligatorio para Toda La Industria del Petróleo en la República Mexicana, appendix i.

The average daily wage offered the oil worker compared with the 1936 average of 7.42 pesos very favorably. The average daily wage paid in mining was only 4.32 pesos, in light and power 5.09 pesos. The average daily wage in the railroad industry in 1936 was 4.87 plus 35% for general social benefits.[15]

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[15] El Aguila, The Mexican Oil Strike of 1937: The Economic Issue, 56-58.

The cost of living for oil workers, however, was declared to be so much higher in the oil regions that the actual wage was lower than that of mining and railroad workers.[16] Moreover,

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[16] Secretaría de Educación Pública, Sobre el Petróleo de México: Conferencias, 85. The union figure for the average oil worker's wage was 3.30 pesos per day and the price he paid for milk was sixty centavos compared to twenty for the worker in the Federal District; for charcoal he paid eighteen centavos compared to the worker in the Federal District who paid only seven centavos. See Mexican News Letter, November 26, 1936.

the companies did not concede any points on management positions.

With the rejection of the company plan by the individual unions to which it was presented, negotiations failed and a strike was called for May 28, 1937, in the whole oil industry.[17]

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[17] Standard Oil of New Jersey, The Reply to Mexico, 27.

The union presented a conciliatory offer to the companies on May 29, 1937, in which the original demands were greatly reduced to thirty-four principal propositions, but this offer was repulsed by the companies which thereafter withdrew entirely from all negotiations.[18]

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[18] De la Selva, "Chronicle of Events Leading to the Expropriation of the Foreign-Owned Oil Industry by the Mexican Government," in Party of the Mexican Revolution, Foreign Information Service, Press Release 1, May 1, 1938, p. 5.

Since the companies had declared they could not meet labor's demands and since the strike was unpopular and after a few days resulted in kerosene and gasoline shortages over the country which threatened to precipitate a national emergency, the union on June 7, 1937, appealed to the Federal Board of Conciliation and Arbitration to adjudicate the conflict as an economic one in which the only issue was whether the companies could economically afford to grant the contract.[19]

[19] Shepardson and Scroggs, The United States in World Affairs: 1938, p. 232. See also Silva Herzog, Petróleo Mexicano, 101, and March, "Mexico and Oil," in Labour Monthly, a Magazine of International Labour, XXI, 172. At the time the Mexican labor movement was split and in some disfavor with Cárdenas for which reason the companies may have judged a strike not likely to be successful. To labor, the strike represented a step in the unification of the oil workers even if all its demands were not realized. See "General Oil Strike in President's Hands after Week's Tie-Up," in Mexican Labor News, II, 3.

The Federal Board agreed to take jurisdiction over the quarrel as an economic dispute and work was resumed June 9, 1937. Under the law the Board had the power to designate experts to study cases involving economic issues, to determine the condition of the business, and to recommend terms for settlement. The Board then was empowered to utilize this information to lay down regulations which were to have the binding force of a judicial decision.[20] The three experts designated

[20] Weyl, Reconquest of Mexico, 241. The companies opposed the declaration of the struggle as one of economic conflict, but were overruled by the Board. See Thomson, "The Mexican Oil Dispute," in Foreign Policy Bulletin, XIV, 123.

by the Federal Board of Conciliation and Arbitration were Assistant Secretary of the Treasury Efrain Buenrostro, Assistant Secretary of National Economy Mariano Moctezuma, and J. Silva Herzog, a government economist and professor in the National University of Mexico.[21] The task of the three experts was so

[21] Thomson, "The Mexican Oil Dispute," in Foreign Policy Bulletin, XIV, 123. Professor Silva Herzog was also a "local communist professor," according to Waugh, Robbery Under Law, 116.

great that a whole staff of researchers, numbering eighty or one hundred and including economists, accountants, and statisticians, was set up. Particular fields of research were assigned to Miguel Manterola Flores, Frederick Bach, Moises T. de la Peña, José López Portillo y Weber, Manuel J. Zevada, Gustavo Ortega, Gilberto Loyo, Humberto Tejera, Macedonio Garza, Gustavo Martínez Cabanas, Joaquín Ramírez Cabanas, hijo, Manuel Aguilar Uranga, José B. Durand, and Adrian Reyes.[22]

[22] Silva Herzog, Petróleo Mexicano, 104. See also Amendolla, Petróleo: Orígenes de la Segunda Independencia de México, 34, and J. Silva Herzog, "Mexico's Case in the Oil Controversy," in International Conciliation, No. 345, p. 514.

President Cárdenas declared that both parties should be heard by the Board and that the experts designated to analyze the situation were responsible and of good faith. He also stated that under the circumstances it could be hoped that both parties to the dispute would abide by the decision of the Board and that the government would enforce the decision reached in order to prevent the stoppage of oil production.[23]

[23] Lázaro Cárdenas, Condiciones Económicas de México, 11-12.

The board of experts in studying the economic situation of the companies and the justness of the workers' demands, reached their conclusions by exact data in some instances and by estimates in others, since neither the companies nor the union furnished precise data for the figuring of costs.[24] They

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[24] Silva Herzog, Petróleo Mexicano, 121.

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completed their work in August, 1937, and compiled a million-word report on their findings.[25] Among the words of the report

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[25] Shepardson and Scroggs, The United States in World Affairs: 1938, p. 253.

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was included the statement that for Mexico the exploitation of her resources had for a long time been a source of turbulence and international conflict originating from the attitude of rebeldía on the part of the companies toward the revolution. For which reason, the experts declared, Mexico proposed to make effective the nationalization of the subsoil.[26]

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[26] Informe Que Rinde a la Junta Federal, mimeograph, I, 152-153.

Both companies and the union were notified August 8, 1937, that they had seventy-two hours in which to examine and raise objections to the findings of the experts.[27] Hearings before

[27] De la Selva, "Chronicle of Events Leading to the Expropriation of the Foreign-Owned Oil Industry by the Mexican Government," in Party of the Mexican Revolution, Foreign Information Service, Press Release 1, May 1, 1938, p. 6.

the full Labor Board began August 19, 1937. Representatives of the companies complained to Cárdenas that the board of experts had reached erroneous conclusions, such as that El Aguila was a part of the Royal Dutch Shell cartel, and a meeting between the Board and company representatives was held in Cárdenas' office on September 2, 1937, where the experts demonstrated the basis for their conclusions.[28] The companies pre-

[28] According to Silva Herzog, the manager of El Aguila was so angered at discovering that the Mexican investigators had read British publications and reports of the great international concerns, that he forgot the courtesy ordinarily exercised on such occasions and had to be reminded of his devoirs by Cárdenas. See Silva Herzog, Petróleo Mexicano, 117.

pared a brief in which they listed their objections to the findings of the investigators and challenged their conclusions with statistics contrary to those of the experts.[29]

[29] Objeciones de la Industria Petrolera al Informe y Dictamen de la Comisión Pericial.

After the report of the board of experts, the Federal Board of Conciliation and Arbitration heard the appeal of the oil companies for further hearings and Special Group Seven of

the Federal Board continued to investigate the situation until October 23, 1937. Special Group Seven consisted of one representative of labor, one of the companies, and a chairman from the Department of Labor, Gustavo Corona. The three members of Group Seven were taken at company expense to inspect conditions in the oil fields,[30] and on one such inspection tour at Nauchi-

[30] El Aguila, The Mexican Oil Strike of 1937: The Economic Issue, 41-43. See also Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 124.

tal the medical dispensary was found still wet with paint.[31]

[31] Sindicato de Trabajadores Petroleros, La Cuestión Petrolera, 18. Laid to impress the visiting authorities, according to Piña Stein. Ibid. An aspect of the dispute explaining in part the bitterness it released is depicted in Elvira Vargas, Lo Que Ví en la Tierra del Petróleo, in which it was declared that no Mexican was permitted to enter the dining room built for American employees at the American-owned field, that Mexicans could not use the tennis courts or the casinos, and that both chlorinated water and the company schools were denied to two hundred families at Cacalilao because of their union activities.

Special Group Seven delayed issuing its decision on the matter until a twenty-four hour strike was called by the union in protest at the lengthy waiting period.[32] Group Seven released

[32] McMahon, Two Strikes and Out, 106.

its report on December 18, 1937.

The award of Group Seven provided for less than one half the original union demands in regard to wages and services but upheld most of the union demands in regard to participation in management. The report left forty-nine groups of persons as confidential employees, about 1100 workers in the whole industry. The award ordered a forty-hour week and one million pesos for medical service improvements with hospitals being maintained for each 1500 workers. The union demands on pensions and vacations were reduced but approved, as was the union demand on housing. Foreign technicians were to be replaced in three years and scholarships of 150 pesos a month were ordered for fifty workers' children.[33] The average daily wage of the oil

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[33] Workers University of Mexico, The Oil Conflict in Mexico, 25-28.

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worker was increased to 8.83 pesos by the award compared to the 1936 average of approximately 6.97 pesos (or 7.42 pesos according to the companies) in 1936.[34] The total cost of the

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[34] Sindicato de Trabajadores Petroleros, La Cuestión Petrolera, 19. According to El Aguila the award of the labor board gave unskilled labor the following wage:

Basic wage	5.29 pesos
Rest days	2.12
Savings fund	.74
Housing	1.40
Vacations	1.71
Pay for eight hour day	11.26
Social benefits	.66
Total effective pay	11.92

See El Aguila, The Mexican Oil Strike of 1937: The Decision of the Labour Board, appendix iv. Wages had already risen 61.95% since 1934, according to the companies. See ibid., 11. Average wages for oil field workers rose 48.53% from 1934 to 1937, according to Gobierno de México, El Petróleo de México, 190.

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award, according to Group Seven, would be 26,329,393 pesos (7,313,720 U.S.), 8,657,647 pesos for wages and 17,641,746 pesos for social welfare benefits.[35] The companies again pro-

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[35] Shepardson and Scroggs, United States in World Affairs: 1938, p. 235. See also Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 125; Standard Oil of New Jersey, The Fine Art of Squeezing, 13, and De la Selva, "Chronicle of Events Leading to the Expropriation of the Foreign-Owned Oil Industry by the Mexican Government," in Party of the Mexican Revolution, Foreign Information Service, Press Release 1, May 1, 1938.

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tested, declaring a special tribunal had been set up and that the report was partial to labor and ignored company records and statements of certified public accountants on their finances.

The companies declared the action of Group Seven was illegal since it enlarged the award to include demands not made by the workers originally. The companies also stated that the ability of the industry to pay had been misrepresented and that the cost of the award had been underestimated, requiring 41,247,032 pesos additional rather than 26,329,393. According to the companies the 26,329,393 pesos estimate was arrived at by calculations on 13,120 employees rather than the actual 13,920 employees, on an annual payroll of 42,108,772.50 pesos

rather than the actual 46,440,022.50 pesos, and ignored outlays for sickness, vacations, etc., as part of the basic wages, overlooking the increase in the number of employees made necessary by the forty-hour week and two hours extra pay for night shift workers.[36] Their managerial rights were destroyed

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[36] El Aguila, The Mexican Oil Strike of 1937: The Economic Issue, 45. According to El Aguila the 1936 costs of the oil companies, the costs according to Group Seven's award, and the costs of the award according to the companies compared as follows:

	1936 Costs (pesos)	Group Seven's Award	Company Estimate of Award Costs
Payroll	44,622,642	61,691,104	73,111,242
Saving Fund	2,391,000	5,166,576	6,216,320
Social Benefits	1,951,357	6,466,958	7,935,734
Miscellaneous	171,620	2,141,373	3,120,355
Total	49,136,619	75,466,011	90,383,651

See El Aguila, The Mexican Oil Strike of 1937: The Decision of the Labour Board, appendix i. El Aguila declared the 90,383,651 pesos did not include fourteen million pesos for retroactive pay to May 28, 1937, eight million pesos retroactive pay prior to May 28, 1937, nor 1,300,000 pesos strike pay. Ibid., 37.

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by the award, according to the companies, since workers were to serve on committees with company representatives to select medical staffs of the companies and since general managers were limited to one a company with formerly confidential positions opened to union members. Furthermore, the companies argued, the award violated labor contracts already in force and respected by the companies. The companies also denied being responsible for the conflict.[37]

[37] Shepardson and Scroggs, United States in World Affairs: 1938, pp. 235-236. See also El Aguila, The Mexican Oil Strike of 1937: The Decision of the Labour Board, 11.

The companies appealed to the courts from the decision of the Labor Board and on December 31, 1937, the Board ruled that the terms of the award should be suspended until the decision of the Supreme Court and ordered the companies to post bond to answer for liability in case the decision of the Court should be against their appeal. The companies refused to pledge their assets as bond but, instead, on January 25, 1938, made bond of three million pesos through a private investment company.[38] The companies' amparo suit arrived February 2, 1938,

[38] De la Selva, "Chronicle of Events Leading to the Expropriation of the Foreign-Owned Oil Industry by the Mexican Government," in Party of the Mexican Revolution, Foreign Information Service, Press Release 1, May 1, 1938, p. 8. The president of Standard Oil of New Jersey conferred with Cárdenas in January, 1938, but no agreement was reached. See Kluckhorn, The Mexican Challenge, 112.

before the Supreme Court.[39] The Supreme Court accepted the

[39] Shepardson and Scroggs, United States in World Affairs: 1938, p. 234. See also Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 125.

petition of the companies and considered the case until March 1, 1938. During the interval the Supreme Court was criticized

as being subservient to the executive branch of the government since judges' terms were for only six years.[40]

[40] Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 125.

The oil workers issued a manifesto to the country on February 5, 1938, calling for country-wide support of the workers in the dispute. Meetings were organized to form petitions to the Supreme Court asking a decision favorable to the oil workers. Vicente Lombardo Toledano, secretary general of the C.T.M., had spoken before the national council of the union on January 6, 1938, declaring that the companies had withdrawn funds from Mexico and had even tried to move some equipment. Toledano declared that Mexico was in a critical moment while it awaited the final political act of the companies, but he stated that Cárdenas would not yield before the imperialistic pressures and could not retreat from enforcement of the law of the country when the companies refused to obey it.[41]

[41] Confederación de Trabajadores de México, C.T.M. 1936-1941, pp. 535-536. The head of the legal department of Huasteca from 1919-1938 stated that by December, 1937, the oil companies removed from Mexico all the cash they could and that Mexican capitalists began to export capital in August, 1937, some 85,000,000 pesos fleeing the country. See McMahon, Two Strikes and Out, 117.

A general convocation of the C.T.M. was called and mass

meetings of union sections were assembled all over the country. The C.T.M. demanded that the Court return a favorable decision and a workers' parade entered the halls of the Supreme Court building carrying banners protesting the companies' action and asking a favorable court decision. President Cárdenas addressed the union assembly and warned that Mexico would resist, even at the cost of economic sacrifice, the efforts of the oil companies to break Mexico's will by creating unrest and alarm through propaganda, withdrawal of deposits, restriction of credit, and other means. Serious difficulties could be avoided, Cárdenas declared, since the people were united and workers and peasants were solidly with the government.[42]

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[42] Confederación de Trabajadores de México, C.T.M. 1936-1941, p. 507. The peasantry had been armed to protect its newly-granted lands beginning in December, 1936. See The Mexican News Letter, December 19, 1936, p. 1.

The Jefe de Trabajo spoke before a section of the oil workers' union at Poza Rica February 14, 1938, declaring that the government's attitude would be determined by that of the companies.[43] Vicente Toledano spoke to the general convocation

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[43] El Aguila, The Mexican Oil Strike of 1937: The Expropriatory Decree, 16-22. See also Vargas, Lo Que Vi en la Tierra del Petróleo, 33.

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of the C.T.M. on February 22, 1938, declaring:[44]

> The oil companies have used all their machinations; not a single dollar nor pound sterling belonging to the companies is in the banks of Mexico. Besides having withdrawn their funds, through their association with the Asociacion Nacional de Banqueras, they have created an artificial atmosphere of fear and dread among the timorous proprietors so that the majority have withdrawn their funds from the banks and have left a financial vacuum.... I have the conviction that Friday the Supreme Court will confirm the judgment of the Federal Committee of Conciliation and Arbitration. After the verdict, what is going to happen? There will come a moment, comrades, it seems inevitable, that the oil companies will have to be replaced by the representatives of the state and of Mexican workers in order to maintain production of oil. We are ready to assume the technical, economic, legal, moral, and historical responsibility which is due a people of free men.... But this act will have grave consequences for Mexico, yet it could not be otherwise, there is no other way for us. To whom will we sell the oil if the two great cartels, Standard Oil and Royal Dutch, owners of all the tankers, should make difficulties for the collection of Mexican oil? Once the businesses are in the hands of the government and workers, what other means will the companies use to worsen the artificial crisis they have created? Will they not use, in a sense, sabotage to lessen the federal revenues? It could be that federal income will be reduced, public works lessened, unemployment increased and an armed uprising among certain groups, like Saturnillo Cedillo. All this could happen but it may not, for England's oil supply in the Near East is in great danger. On the other hand, Mexican oil would be available to England, could always be reached. Would England dare leave Mexico in order to found her program of rearmament on an oil supply threatened by Italy? We shall see in a few weeks. What the National Committee of C.T.M. wishes to know is this: Is the proletariat of Mexico ready to make a sacrifice, whatever it may be, to defend the autonomy of Mexico? Is the Mexican proletariat ready to take up arms to defend itself against reaction and imperialism?

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[44] Confederación de Trabajadores de México, C.T.M. 1936-1941, pp. 501-503.

This speech raised doubts as to the secrecy of the Court's deliberations since Justice Xavier Icaza was an intimate friend

of Toledano's.[45] The companies protested the propriety of

[45] Weyl, Reconquest of Mexico, 297.

Justice Icaza's sitting and subsequently the Justice excused himself from participating in the decision after a speech in which he declared that he did so because he had intervened personally in the struggle which he considered one of serious political character of international significance, a part of the struggle against imperialism.[46]

[46] El Aguila, The Mexican Oil Strike of 1937: The Expropriatory Decree, 22-25. Interestingly enough a scurrilous pamphlet accusing the president of the labor group of the Supreme Court, Salomón González Blanco, of being underage when named to the post, of lying to conceal it, of notorious immorality, and of ignorance of the law was published as an open letter to the Chief Justice of the Court on January 15, 1938. See A. Bulnes Quintana, Los Asuntos Petroleros en la Suprema Corte de Justicia: Acusación Presentada en contra del Ministro Salomón González Blanco, Presidente de la Sala de Trabajo por el Honor de la Justicia Nacional.

The Court in rendering its decision on March 1, 1938, simply read and voted its approval publicly of each section of the decision, contrary to the usual custom of a public discussion of the points of law in the verdict.[47] In its judgment

[47] El Aguila, The Mexican Oil Strike of 1937: The Expropriatory Decree, 26.

the Supreme Court declared:[48]

> The Special Board No. 7 is competent to hear the case since the Plenum declared it so and the Special Group is a part of the Plenum and could not contest its decision.... The designation of Licentiate Gustavo Corona to serve after the withdrawal of Board President Licentiate Romeo Leon Orantes was legal since the law provides for the Chief of the Labor Department to appoint a substitute, as was done in this case. Therefore the Special Board was not a special tribunal, as the companies claim.... The injury alleged from the Board's extending its awards beyond those asked by the union is denied since the law empowers the board to fix such conditions in economic conflicts.... The Boards are under no compulsion to limit themselves in such cases.... The oil contract was voided when both parties negotiated a new one, and agreeing so to negotiate and failing, the workers' appeal to the government and its judgment cannot be held to violate the old contract.... The claim of the companies that "economic conflict" is for employers, not employees, is unfounded since the nature of the conflict, not the parties to it, must determine that and it is undeniable that the situation is identical when a union requests new working conditions or when a company does.... When the workers present a petition it is the real situation of the industry which must be investigated and so in the case of the employer petition.... The Supreme Court cannot review the decision of the Board as to the financial situation of the companies but only determine if the Board followed procedure established by law.... The companies are obligated to pay no more than 26,329,393 pesos and have to comply with the order only up to this amount; until it is demonstrated that the order requires greater expenditures, no violation of rights has occurred.... The order of the Board concerning technicians does not violate the spirit of the labor law, for the 90% figure required for nationals in enterprises is a minimum, not a maximum, and all countries protect their nationals against foreign technicians.... The order for salary adjustments to be made from May 28, 1937, is not retroactive for in a dispute of economic order it is supposed that a disequilibrium exists between wages and profits and logically the disequilibrium should be adjusted as of the time of its origination....

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[48] Workers University of Mexico, The Oil Conflict in Mexico, 53-72.

The Court, therefore, upheld the award of the labor board by denying amparo to the companies. The Board set March 7, 1938, as the final date for the companies to adhere to the award but the companies reopened negotiations directly with the executive branch of the government.[49]

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[49] Shepardson and Scroggs, United States in World Affairs: 1938, p. 235.

The issue between the companies and labor was basicly the control of the oil industry. The companies argued financial inability to pay the 26,329,393 pesos the award required whereas the board of experts had found the companies financially able to meet the added expense. Further, the companies argued that the experts had miscalculated the amount which the award required. The question which had been examined by the board of experts was that of the real earnings of the oil companies. Since the dispute had been declared one of economic order, the problem of settlement in favor of companies or workers hinged on the ability of the companies to pay. In determining the financial status of the companies the board of experts had studied the years 1934-1936. Earnings of the companies on their capital investment were difficult to measure since the capital investment was estimated at widely varying figures. According to the oil companies, average profit on unamortized capital investment from 1934 to 1936 was 7.5% although the board of ex-

perts' figure for such profit was 16.81%. A board of neutral auditors called in by the companies calculated that the average return to the companies over the ten year period, 1928-1937, had been 4¼% per year. Still another estimate of profit showed that the combined earnings of twenty-five oil companies, 1927-1937, averaged an annual return of 5.2% on invested capital with cash dividends averaging 4% annually. Any of the varying estimates, however, exceeded considerably the 1.2% earned on capital invested in the United States oil industry in 1935.[50]

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[50] El Aguila, The Mexican Oil Strike of 1937: The Economic Issue, 27. See also Shepardson and Scroggs, The United States in World Affairs: 1938, p. 233; McMahon, Two Strikes and Out, 48; Joseph E. Pogue, Economics of the Petroleum Industry, 55-56; and Richberg, The Mexican Oil Seizure, 29. On the other hand, semi-official government corporations such as Seguros de México, S.A. and Banco Hipotecario de Obras y Bienes Raices earned from 6-10% or over in 1936 while privately owned utilities, banks, insurance companies, etc., earned from 10-16% on capital, according to El Aguila, The Mexican Oil Strike of 1937: (May 28-June 9), pp. 64-65.

In the final analysis production was the answer to the problem of whether the companies could pay. Total production of Mexican crude in 1934 was 38,171,946 barrels; in 1935 production was 40,240,563 barrels; and in 1936 some 41,027,915 barrels were produced.[51] The total crude production for the

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[51] Manterola, La Industria del Petróleo en México, 97.

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three years was 119,440,424 barrels.[52] Exported petroleum in

[52] At American prices that amount of crude, 1934-1936, was valued at 444,755,575.80 pesos. According to Pogue, Economics of the Petroleum Industry, 41, the American refiner's margin in those years averaged about $0.56 (U.S.) per barrel, adding an additional 133,773,274.88 pesos to the value of the crude, if all were refined. The total value of Mexican production at American prices if all had been refined for 1934-1936 amounted to 578,528,850.68 pesos.

1934 was 25,161,658 barrels; in 1935 some 22,481,814 barrels were exported; and 25,091,822 barrels were exported in 1936, a total exportation of petroleum products of 72,735,295 barrels in the three year period.[53] Exported kerosene in 1936 was

[53] Gobierno de México, El Petróleo de México, 146.

valued at 4,323,925 pesos and exported gasoline at 46,624,606 pesos.[54] The total value in 1936 of the major exported petro-

[54] Secretaría de la Economía Nacional, Anuario Estadístico 1939, p. 582.

leum products was 152,177,873 pesos and in 1935 the value was 153,480,426 pesos.[55] For the three years the value of exported

[55] Banco Nacional de Comercio Exterior, El Comercio Exterior de México (1938-1939), p. 2.

petroleum products was about 450,000,000 pesos.

The major exporting companies were El Aguila which shipped 45,094,247 barrels in the three years, 62% of petroleum products exported. Huasteca sent from Mexico 13,358,419 barrels of oil products, 18% of all exportations of petroleum goods.[56] Accord-

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[56] Gobierno de México, El Petróleo de México, 146.

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ing to Manterola, El Aguila earned a profit of 42,704,228.90 pesos on oil in 1936 alone, although El Aguila claimed to have earned only 14,024,527.81 pesos. The difference in estimates of profit was primarily due to El Aguila's selling to its international affiliates at a price below the world market. El Aguila in 1936 sold all the oil it delivered on ship in Mexican ports to the Eagle Oil and Shipping Company, a subsidiary of the Canadian Eagle Oil Company, at a price of 2.07 pesos per barrel with a 5% discount or a net price of 1.96 pesos. The same year Huasteca shipped over two million barrels at 3.19 pesos per barrel. The world price at the time was 3.28 pesos per barrel.[57] At El Aguila's price the oil exported brought

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[57] Manterola, La Industria del Petróleo en México, 301. See also Silva Herzog, Petróleo Mexicano, 115.

32,002,064.64 pesos; shipped at Huasteca's price, it would have brought 52,084,992.96 pesos. At the world market price it would have brought almost 10% more. El Aguila defended the

price received per barrel for its petroleum by declaring that the great difference was due to the lower price received for large volume, tank-car lots of petroleum sold abroad.[58] Accord-

[58] El Aguila, The Mexican Oil Strike of 1937: (May 28-June 9), p. 54. El Aguila's defense of the prices charged for oil was supported by statements from leading shipping companies but these were rejected as evidence of collusion. See ibid., 10. In this connection it should be noted that El Aguila alone exported more oil in 1936 than the whole industry in the United States, 8,576,211 barrels for El Aguila to 3,104,902 barrels for the United States. See Objeciones de la Industria Petrolera al Informe y Dictamen de la Comisión Pericial, 16.

ing to El Aguila, the actual dock-side price per barrel for oil at New York was $1.00 (U.S.) or 3.60 pesos when the trade publication price was $1.35 (U.S.) or 4.86 pesos, a difference of 26%.[59] The difference between El Aguila's price and that

[59] El Aguila, The Mexican Oil Strike of 1937: (May 28-June 9), p. 53. The Mexican government pointed out that if oil journal quotations were not actual prices but only opinions of the publishers, no such declaration was made by the journals until May, 1937, when a note so declared in the Oil and Gas Journal. The average price declared by the companies themselves to be the real price for oil sold in large quantities, August-December, 1936, was the same as that given as the average for 1936 by the Oil and Gas Journal. See Gobierno de México, El Petróleo de México, 181 fn. and 183 fn.

of Huasteca, however, was 38%.

The Mexican government further alleged that not only did the companies conceal their true earnings by selling at artificially low prices to their subsidiaries but also took large

sums unobserved and untaxed from Mexico by charging to 1934-1936 costs which were not actually borne in those years. This was done by making recharges for depreciation and amortization through revaluing properties when currency exchange rates fluctuated; by hiding income through the use of special accounts such as El Aguila's cambios en suspenso; by recharges of purchasing prices as in the case of Standard Oil of California which charged very high prices for materials theoretically sent to its Mexican subsidiary, which materials in reality were bought by the subsidiary from El Aguila at low prices and the price refunded to the parent company by El Aguila outside Mexico; by charging to the account books extraordinary amounts for lost litigation, as in the case of El Aguila when fourteen million pesos were so charged in 1934-1935; and by exaggerated salaries and costs for administration and functionaries of the businesses in their offices abroad when in reality most transactions were made in Mexico.[60] According to Manterola, the

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[60] Manterola, La Industria del Petróleo en México, 302-304. El Aguila maintained that practically the whole cost of production was represented by the amortization of deferred charges for explorations and development which made it impossible to obtain specific costs for any one period in the industry. See El Aguila, The Mexican Oil Strike of 1937: (May 28-June 9), p. 62. Full company counterclaims in regard to the experts' figures may be seen in Objeciones de la Industria Petrolera al Informe y Dictamen de la Comisión Pericial.

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real earnings of El Aguila, squeezed dry of all concealed gold, were as follows, 1934-1936:[61]

	1934	1935	1936
Earnings according to El Aguila	1,701,842.89	12,515,467.91	14,024,527.81
Price difference on exports	10,427,857.35	7,075,876.63	11,607,201.32
Excess depreciation	6,059,445.33	3,686,597.47	3,670,463.15
Adjustment of earnings to sterling	292,726.57		
Tax on money paid to British govt.	127,048.25		
Tax on money paid previously, as above	2,662,612.75		
Tax on materials imported tax free under concession of 1906, now canceled	4,304,691.54		
Derechos consolares	598,321.68		
Adjustment of price for oil sold to Sabalo in 1933	336,100.42		
Judgment paid to Amatlan		12,217,007.20	
Expenses judgment to Amatlan		661,731.35	1,106,093.49
Discounts to Eagle Shipping Co.		3,243,812.50	3,734,938.80
Impuesto de ausentismo		252,884.72	815,064.64
Adjustment conversion assets		84,362.21	
Tax on dividends to Anglo-Mexican Oil Co. and paid to Anglo-Saxon Oil Co.			156,617.86
Adjustment account to inventory			5,140,365.65
Royalties previous years			475,074.33
Recharges of costs of materials with 4% int.			957,743.19
Undue losses for sale of bonds			881,978.53
Earning on abandoned construction			134,160.13
Profit on conversions	122,143.97		
True earnings of the company	26,632,790.75	39,737,739.99	42,704,228.90

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[61] Manterola, La Industria del Petróleo en México, 305.

The board of experts disallowed as costs such items in El Aguila's accounting of 13,336,183.81 pesos for "diverse" expenses in 1935, while Huasteca's books showed a charge of only 593,397.80 pesos for such an item. Also disallowed as expenses was the account labeled cambios en suspenso in El Aguila's books. In 1935 this item received 1,700,368.53 pesos in El Aguila's books while the same year Huasteca carried only 63,092.80 pesos for the purpose.[62]

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[62] Gobierno de México, El Petróleo de México, 276-280; 297-318.

For all major companies involved in the dispute--El Aguila, Huasteca, Pierce, California Standard, Agwi, Penn Mex, Stanford Oil, Richmond Oil, La Imperial, Imperio, Mexican Sinclair, Consolidated Oil, and Sabalo--profits according to the government and according to the companies, 1934-1936, were as follows:[63]

	Company Figures (pesos)	Government Adjustment	Government Figures
1934	20,532,621.37	30,947,158.88	51,479,780.25
1935	27,658,940.49	34,309,079.63	61,968,020.12
1936	20,708,445.41	34,858,897.90	55,567,343.31
Total	68,900,007.27	100,115,136.41	169,015,143.68

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[63] Manterola, La Industria del Petróleo en México, 299-301.

The total cost of operations for the companies in 1936 was set

at 127,599,383.10 pesos by the Mexican government. Of this sum, 43,213,783 pesos were charged to wages and salaries for 18,006 employees.[64]

[64] Secretaría de la Economía Nacional, Anuario Estadístico 1939, p. 430.

According to the Mexican government, profit each year, 1934-1936, had been greater than the total amount expended for wages and salaries in 1936. Even the company figures showed a profit each year approximate to half the sum paid for wages and salaries. The added wages and services order to be paid by the companies in the decision of Group Seven amounted only to 26,329,393 pesos according to the government. According to El Aguila, the added expense would have been 41,247,032 pesos with another eight or nine million pesos added the first year for retroactive payments to May 28, 1937.[65] Under the labor board

[65] El Aguila, The Mexican Oil Strike of 1937: The Economic Issue, 66. See also Shepardson and Scroggs, United States in World Affairs: 1938, p. 235.

award the total company expenditures for employees would have reached roughly 75,000,000 pesos yearly.[66] In either case, the

[66] Silva Herzog, Petróleo Mexicano, 215. Or ninety millions, according to the companies.

award was not beyond the financial means of the companies under the government's calculations. In fact, the crux of the matter, as one company representative declared later, was control of management; the companies after the Supreme Court decision were willing to make any possible financial sacrifice but could not accept loss of control of management.[67] The companies declared

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[67] Richberg, The Mexican Oil Seizure, 32.

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that working conditions already had been difficult because of labor's attitude and under the new contract would have been unbearable.[68]

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[68] "City Notes: Mexican Oil Dispute," in The Times (London), March 21, 1938, p. 20.

The management problem was complicated by the fact that Cárdenas previously had declared that if foreign companies tired of the struggle with labor they could leave Mexico and turn their property over to the workmen or to the government.[69] As

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[69] Standard Oil of New Jersey, The Fine Art of Squeezing, 9.

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a matter of fact, a large number of companies had withdrawn from oil production in Mexico between 1927 and 1936,[70] but

[70] El Aguila, The Mexican Oil Strike of 1937: The Economic Issue, 11.

not entirely because of such an attitude on the part of the Mexican government. The companies complained that the union contract allowed El Aguila only thirty-five confidential posts, Huasteca eleven, and Pierce four in addition to legal staffs. Previous contracts in rubber and wool industries had recognized as confidential positions executives, managers, cashiers, accountants, time-keepers, secretaries of administrative and executive personnel, factory and department foremen, janitors, and private chauffers.[71] The companies had proposed that confiden-

[71] El Aguila, The Mexican Oil Strike of 1937: (May 28-June 9), pp. 5, 37.

tial positions be divided into four groups, from executives down to secretarial positions while the unions had demanded that the highest union-controlled position in any company be unionized in all the plants.[72] The award had given the workers

[72] Ibid., 11, 18.

the right to serve on committees with company and governmental representatives which were to select medical staffs of the companies. General managers had been limited to one to each com-

pany with former non-union positions, such as managers of refineries and cashiers, opened to union members. Any holder of a confidential position was to be discharged if more than three complaints were made against him by union workers and promotions were to be strictly on a seniority basis. Reductions in staffs were to eliminate non-union employees first. Workers expelled by the union were to be discharged at once. All foreign technicians were to be replaced by Mexicans within three years.[73]

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[73] Shepardson and Scroggs, United States in World Affairs: 1938, p. 236.

To the oil companies the labor board award was not the result of over-zealous activity on the part of labor leaders but a deliberate step taken for the nationalization of the oil industry. From 1935, in their view, the constant demands of the workers, encouraged by agitators well-known in the official world, and the threats of strikes against an industry pictured as rapacious, were all the development of a previously conceived plan to use the proletariat for future ends. As early as August, 1937, after the report of the board of experts, the companies of American capital turned once more to the Department of State of the United States and reported that it was apparent that the objective of Mexico was to take over the oil industry at a low price by reducing the value of the properties through regulation, labor awards, and price fixing.[74] The oil companies be-

[74] Richberg, The Mexican Oil Seizure, 30.

gan to withdraw their liquid assets and cash from Mexican banks after the report of the board of experts in August, 1937.[75]

[75] Kluckhorn, The Mexican Challenge, 108.

The actions of the Mexican government during 1937 in regard to property gave the companies some reason to fear. The National Railways were expropriated in June, 1937, with foreign creditors denied the right to intervene in management. The management of the railway was vested in the workers on May 1, 1938, under a committee elected by the union.[76] Large-scale

[76] Weyl, Reconquest of Mexico, 271-272.

divisions of agricultural lands were made in the henequen-producing region of Yucatan in August, 1937, and in the fall in the Yaqui River Valley. The government announced October 22, 1937, that in three years twenty-five million acres carved from large estates had been distributed among 569,000 peasants and organized into 5,985 ejidos. Some 350,000 acres of oil lands under lease to Standard Oil of California were nationalized on November 4, 1937, although at virtually the same time the rich Poza Rica concession was let to El Aguila.[77]

[77] Thomson, "Friction with Mexico," in Foreign Policy Bulletin, XVII, 2.

The contract with El Aguila, according to Cárdenas, had especial importance, for it illustrated the Mexican government's policy toward the oil industry. The policy of Mexico was not to reduce oil to a substance exploited solely by the government but to give every sort of aid to Mexican companies for the exploration and exploitation of the subsoil by means of contracts from which the nation received a suitable royalty. In the contract with El Aguila the right of the government to the oil in the subsoil and its power to fix the terms of all kinds of concessions, even confirmatory ones, to meet the interests of the country had been recognized for the first time by the industry.[78]

[78] Lázaro Cárdenas, Mensaje de Año Nuevo, 16. The American oil companies were informally requested by Secretario Suárez in December, 1937, to make a deal whereby the Mexican government would approve pending concessions in return for the payment of high production royalties. Nothing was said about the wage dispute in the offer, according to Kluckhorn, The Mexican Challenge, 111.

The concession provided that Dutch Shell (El Aguila) was to begin at once drilling thirty or forty wells; the company was to lend the government five million dollars (U.S.); two refineries were to be built in Mexico financed in part by the government; ten merchant ships were to be built, again with the

cost shared in part by the government; all loans were to be repaid in oil sold, 60% to the company and 40% to the government, and a 15-35% royalty was to be paid on gross production from the concession.[79]

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[79] Kirk, Covering the Mexican Front, 163. See also Stocking, "The Mexican Oil Problem," in International Conciliation, No. 345, p. 499.

Under confirmatory concessions in Mexico in 1937 were 14,690,237 acres with 4,143,291 acres under ordinary concessions.[80] Oil fields in 1936 numbered thirty-six with 1003 wells

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[80] Robledo, The Bucareli Agreements, 97.

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producing 41,093,142 barrels, of which almost 40% came from the Poza Rica field.[81] The industry, interestingly enough,

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[81] Secretaría de la Economía Nacional, Anuario Estadístico 1939, p. 430. See also Manterola, La Industria del Petróleo en México, 128.

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expanded during 1937 with oil fields in operation rising to forty-one and the number of producing wells to 1039. Even the number of employees increased approximately 2,800.[82] Mexico's

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[82] Secretaría de la Economía Nacional, Anuario Estadístico 1939, p. 430.

trade with the United States stood at $170,000,000 (U.S.), having revived from a low of $68,000,000 in 1933.[83] The oil production tax yielded a four-year high in 1937 of 10,591,177 pesos. Eleven refineries were in operation although only four were complete refineries and three of those were El Aguila's. In general the oil industry was prospering, along with Mexico, in 1937.[84] Deposits in commercial banks were 321,000,000 pesos in 1937, a high point since 1928, and metallic reserves were 194,000,000 pesos, providing a 70% coverage of currency notes.[85] Gold and silver and foreign assets reserves of Mexico in 1936 reached 55,000,000 pesos, up from five millions in 1931. The indices of crude and refined oil production were 104.98 and 177.67 (1929 = 100).[86] Gasoline consumption within Mexico had

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[83] United States Tariff Commission, Trade Agreement between the United States and Mexico, i.

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[84] Manterola, La Industria del Petróleo en México, 62, 406. See also United States Tariff Commission, Mining and Manufacturing Industries in Mexico, 50-51.

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[85] League of Nations, Monthly Bulletin of Statistics, XIX, 619. See also J. H. Carmical, "The Crisis Spreads," in The Atlantic Presents: Trouble below the Border, I, 5-6.

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[86] League of Nations, Monthly Bulletin of Statistics, XX, 586. See also Secretaría de Economía Nacional, Anuario Estadístico 1939, pp. 448-449.

increased by 1937 to 368.4% of the amount consumed in 1926. The value of both exports and imports was at its highest since 1925, with a favorable trade balance for Mexico of 278,633,115 pesos.[87] Mexican crude oil production amounted to 46,450,000

[87] Secretaría de la Economía Nacional, Anuario Estadístico 1939, p. 557. See also Manterola, La Industria del Petróleo en México, 266.

barrels, 2.28% of the world total and greatest production since 1928. Production of refined gasoline was 7,259,000 barrels in 1937, double that of even 1923. Exportations of crude petroleum and its derivatives were valued in 1937 at 162,343,861 pesos. Flourishing economic conditions were also indicated by the high level of general exports from Mexico in 1937 (140.86 of the 1929-1933 level) and by the level of industrial production (123.99 of the 1929 index).[88] The comparatively prosperous

[88] United States Department of Commerce, Domestic Commerce, XXVI, 31. See also Manterola, La Industria del Petróleo en México, 97; United States Tariff Commission, Mining and Manufacturing Industries in Mexico, 52; and Banco Nacional de Comercio Exterior, El Comercio Exterior de México (1938-1939), p. 2.

condition of Mexico was threatened by the dispute in the oil industry which internally was a major economic force and which, linked as it was externally to foreign political and economic interests, was once again a potential danger to Mexico's international position and her political stability.

CHAPTER XI

EXPROPRIATION: GOAL ACHIEVED

The appeal of the oil companies to the Supreme Court for amparo against the award of the Labor Board and the rejection of their appeal as unjustified produced no measurable change in their attitude in the controversy. In fact, on March 2, 1938, the companies issued a joint public statement in which they declared that they were unable to obey the decision of the Court. The attitude of the companies was that the demands of the oil workers granted by the Labor Board were such that the companies could not possibly consent to them. They simply declared that the judgment of the Supreme Court did not alter the fact that they could not comply with the terms of the award since the conditions of compliance were impossible. Nor would they comply with Section XXI, Article 123, of the Constitution of Mexico regarding broken labor contracts. Rather ominously they announced that the decision of the Court was regretable and was bound to have serious consequences for all who were dependent on the oil industry.[1] The American companies then

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[1] "Declaraciones de las Compañías Petroleras," in El Universal, March 2, 1938, p. 1. See also W. E. McMahon, "Case of the American Oil Companies," in S. D. Meyers (ed.), Mexico and the United States, Proceedings of the Fifth Annual Conference Institute of Public Affairs Auspices Carnegie Endowment for International Peace, 1938, p. 82; El Aguila, The Mexican Oil Strike of 1937: The Expropriatory Decree, 32; and Weyl, Reconquest of Mexico, 298.

then held a conference through an agent in Washington, D.C., with Undersecretary of State Sumner Welles on March 4, 1938.[2]

[2] "Quejas de las Compañías," in El Universal, March 5, 1938, p. 1.

Immediate enforcement of the award did not follow the Supreme Court decision because an appeal was still pending befor the First District Court of Administrative Matters against the resolutions of the full Labor Board and this suit did not arrive before the Supreme Court until March 12, 1938, when it too was rejected.[3] The courts had spoken their last word by

[3] Person, Mexican Oil, 51, and El Aguila, The Mexican Oil Strike of 1937: The Expropriatory Decree, 32.

March 12 but still the award was not enforced. The President of the Supreme Court in an interview stated that the oil case was of enormous importance since it was the first occasion on which the oil companies had been condemned by the courts in Mexico and, therefore, the act held tremendous significance.[4]

[4] "Las Empresas de Petróleo No Van á Dejar el País," in El Excelsior, March 4, 1938, pp. 1, 10.

In the meanwhile private negotiations continued among the companies, the government, and the union. The companies in-

formed Cárdenas that they might be able to meet the financial aspect of the award if other items such as those connected with supervisory employees were suspended. This offer was made a week before expropriation. It was repeated one hour before actual expropriation. The companies' lawyers also dealt directly with the union, indicating willingness to pay the amount of the award if the settlement in other matters was on their terms.[5]

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[5] El Aguila, The Mexican Oil Strike of 1937: The Expropriatory Decree, 33; Person, Mexican Oil, 51; Confederación de Trabajadores de México, C.T.M. 1936-1941, p. 546; and Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 126.

Since the courts had already upheld the award, those offers were rejected. In the meanwhile the Federal Board of Conciliation and Arbitration ordered the funds of the companies held under injunction as bond for 813,000 pesos due the workers as a result of the strike from May 28-June 9, 1937. The companies' funds on deposit at the time of the order were 670,000 pesos.[6]

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[6] "Las Empresas Petroleras Fueron Embargadas Ayer por $813,000," in El Universal, March 8, 1938, p. 1.

The impasse between oil companies and government provoked a special meeting of the Bloque Nacional Revolucionario in the Cámara de Diputados which passed resolutions supporting the government. The resolutions declared that any organization in Mexico was obligated to accept a judgement of the Supreme Court,

according to international treaties. The bloc added that the situation in Mexico was of international importance and that the threats of the oil companies to withdraw from Mexico would give Mexico the opportunity to nationalize the industry.[7] The

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[7] "Los Diputados Apayan con Firmeza al Gral. Cárdenas," in El Universal, March 8, 1938, p. 6.

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revolutionary bloc of the Cámara de Senadores was addressed by Cárdenas who declared that the oil companies had been informed by the President of Mexico that he would answer for the award's not exceeding a cost of 26,300,000 pesos, to which the companies replied that they could not accept the decision. On being questioned, they admitted that they realized the consequences of their attitude and were informed that foreigners, no more than nationals, could be permitted to make the courts ridiculous and to threaten the sovereignty of the country. The oil companies by refusing to recognize a legal order left the government with no other road to take than that which the law pointed out, Cárdenas warned. The situation, Cárdenas declared, presented Mexico with an unparalleled opportunity to make itself truly independent politically and economically, to free itself of the constant intervention which the oil companies had made in Mexico. In fact, Cárdenas said, Article 27 obliged the government to deny undue privileges to the companies and whatever circumstances might result could be met and solved by

Mexico without fear of international conflict.[8]

[8] "El Presidente de la República Habla de la Situación Actual," in El Universal, March 9, 1938, p. 1. See also "La Cuestión Petrolera," in El Universal, March 10, 1938, p. 3, and Workers University of Mexico, The Oil Conflict in Mexico, 77-78. Cárdenas also is supposed to have stated that if the oil wells were an obstacle to the preservation of national dignity, Mexico would burn them. See Angel Menéndez, Ideas y Direcciones Politicas, 50, and Mauricio Fresco, Synthèse du Conflit du Pètrole au Mexique.

Cárdenas was visited by the National Committee of the C.T.M. and the Executive Committee of the Oil Workers' Union, which declared that the proletariat wished to reiterate its full support of the government in the conflict with the oil companies and to pledge willingness to make any necessary sacrifice to maintain the dignity of Mexico. The Federation of Teachers in the Federal District also sent Cárdenas a message of support for his attitude, which showed his desire to benefit the masses.[9]

[9] "El Laudo Se Cumplirá," in El Universal, March 9, 1938, p. 1. See also "Incidente Sensacional en el Conflicto de los Petroleros," in El Universal, March 17, 1938, p. 15.

According to Virginia Prewett, the decision to expropriate was made March 10, 1938, when Cárdenas sent a note to Secretario de Comunicaciones Francisco Múgica requesting that a stirring manifesto be drafted to touch the hearts of the Mexican people and make them realize the necessity to defend the

dignity of Mexico, since by their disobedience the oil companies had produced a situation where the government was required to take over the industry to make the law respected.[10]

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[10] Prewett, Reportage on Mexico, 121.

All maneuvers were not complete, however, and expropriation did not come at once. On March 14, 1938, the Labor Board once again ordered compliance with the award within twenty-four hours and again the companies declared they could not. The union then asked the Labor Board to declare the companies in rebeldía and on March 17, 1938, the union asked the Board to void the labor contract contained in the award of December 18, 1937, which meant that the companies, if the petition were granted, should pay three months wages under the contract plus severance pay, for all workers, amounting to twenty days for each year of employment--a sum of about one hundred million pesos.[11] The Board then notified the companies that they had

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[11] Workers University of Mexico, The Oil Conflict in Mexico, 84. See also Thomson "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 126, and El Aguila, The Mexican Oil Strike of 1937: The Expropriatory Decree, 35.

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five more days to draw up a contract in accord with the December 18 award.

The C.T.M. had already notified workers and peasants by

March 16, 1938, to appear in the capital on March 23 at ten o'clock in the morning to take part in a popular demonstration.[12] The union placed guards at all offices, terminals,

[12] "Incidente Sensacional en el Conflicto de los Petroleros," in El Universal, March 17, 1938, p. 15.

and refineries at four o'clock in the afternoon, March 17, 1938, and stopped the movement of loaded tank cars, except for the railroad's use, along with all other operations in the oil industry.[13] At two o'clock in the afternoon on March 18,

[13] "Mexican Oil Move Made in Advance," in The New York Times, March 23, 1938, p. 11.

the Labor Board ruled that the December 18 award was a contract terminated by the companies and held the companies liable for all the costs (fines, penalties) resulting.[14] The union then

[14] El Aguila, The Mexican Oil Strike of 1937: The Expropriatory Decree, 39, and Workers University of Mexico, The Oil Conflict in Mexico, 84. The companies argued that the December 18 award was not a contract and that therefore the Board's action was illegal.

notified all its members to cease work at midnight March 18-19, 1938.[15]

[15] Workers University of Mexico, The Oil Conflict in Mexico, 85.

Mexico was faced, therefore, with imminent paralysis of a major industry. A high official of one of the oil companies had declared in New York on March 17, 1938, that his company had made the greatest concessions possible and that the government could not operate the industry, perform the services, or pay the wages the award required.[16] The chief problem, as

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[16] "La Opinión de las Empresas," in El Universal, March 18, 1938, p. 4.

Mexico saw it, was different. It was the abandonment by the companies of exploitation of oil, which industry was a public utility, with the ultimate purpose being the paralyzation of transport, of industry, and of activities fundamental to the economy--and thus to force a change in governmental policy.[17]

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[17] Informe Que Rinde al H. Congreso de la Unión el C. Presidente Lázaro Cárdenas sobre Su Gestión de Septiembre de 1937 á Agosto de 1938, p. 15.

Since the production of petroleum was intimately tied with the economic and social interests of Mexico, for on it depended transport and agriculture directly, the necessity, even duty, of the government to intervene to prevent the industry's use of ruthless methods against its opposition (Mexican society) was clear, in the government's view.[18] In fact, the aim of

[18] Secretaría de la Economía Nacional, "La Intervención del Estado en los Procesos de Producción," in Revista de Industria, I, 3-4, and Octavio Rodríguez y Manuel Sanz, "Petróleo: El Petróleo Como Fuente Productora de Energia Matriz," in Revista de Industria, I, 10. See also Confederación de Trabajadores de México, C.T.M. 1936-1941, p. 527.

the various Mexican governments for years had been to place an industry so important to the economy under national control, particularly since the efforts of the oil companies to exert a power, political and economic, greater than that of the state was dangerous. The intention had been to accomplish the objective gradually by creating a national organization to exploit federal reserves and slowly to expand it to produce most of the oil of Mexico. The evolutionary process was made impossible by the dispute of 1937-1938.[19]

[19] Bureau of Information of the Mexican Government, Oil: Mexico's Position, 5.

Secretario de Hacienda Eduardo Suárez declared that Mexico's policy toward foreign capital had not changed, that such capital was welcome but had to obey Mexican laws and co-operate with the state.[20] Nationalization, the alternative in the oil

[20] Carlos Díaz Dufoo, "El Gobierno y los Capitales Extranjeros," in El Excelsior, March 5, 1938, p. 5.

industry, was inexpedient in 1937-1938. The primary aim of the government was to solve the land problem which required vast sums (for Mexico) of money, and uncompensated expropriation was not possible for Mexico as for Russia in 1917 because Mexico could not survive cut off from the capitalistic world.[21] Even

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[21] Joaquín Santaella, El Petróleo en México: Factor Económico, 77-78.

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so, the opportunity for Mexico to determine that Mexican oil be used to satisfy Mexican needs and to develop Mexico domestically had arisen.[22]

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[22] Secretaría de la Economía Nacional, "La Exploitación del Petróleo en México y el Consumo Nacional," in Revista de Industria, I, 4.

The companies' insistence that they were wronged by the action of the Labor Board and the Supreme Court was based on the rules of common law, judicial procedures, and the application of liberal doctrines to a Mexican situation which was governed by Mexican labor law, and that law was not based on the doctrine of free play between factors of production but on the dominance of the state and the protection of the worker.[23]

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[23] González Ramírez, El Petróleo Mexicano, 99-100. See also López Portillo, 2a. Exposición Objectiva del Plan Sexenal. El Aspecto Tecnico del Conflicto Petróleo en México, 44-47.

The Mexican government previously had recognized the absolute necessity of capital for the economy and had not been systematicly hostile toward private property; only in cases of evident public interest had it intervened.[24] What the foreign-owned

[24] Seis Años de Gobierno al Servicio de México, 1934-1940, xvii.

oil industry lacked was political vision, not economic capacity.[25] Mexico could not allow (and avoid slavery to interna-

[25] Bach y De la Peña, México y Su Petróleo, 58.

tional business) the oil companies to disregard the laws of the country, to treat contemptuously regularly rendered court decisions, to pay taxes as they saw fit, to enjoy a special and privileged position with respect to labor--and every branch of the Mexican government had declared these things to have been true in the history of the industry.[26]

[26] Government of Mexico, The True Facts, 13. See also José López Portillo, "Petróleo: La Independencia Económica de México," in Revista de Industria, I, 6.

Beginning March 14, 1938, and extending to March 18, 1938, the Secretaría de Educacion conducted a series of conferences in the Palacio de Bellas Artes in Mexico City at which the oil

question was discussed by governmental officials before students of the secondary schools of the Federal District. The Head of the Department of Secondary Instruction declared that the oil problem did not affect only the oil workers but the entire life of the whole nation. A Professor from the National University told the students that powerful nations sought to protect their oil interests in weak countries by imperialistic means through the great trusts--provoking civil war, making diplomatic protests, or resorting even to military intervention. Vicente Toledano said that Mexico had not won true autonomy, economic independence, in 1821 because no country could be truly independent which did not have an industry able to satisfy the fundamental needs of the people and which did not control the raw materials necessary to produce those fundamental needs.[27]

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[27] Secretaría de Educación Pública, Sobre el Petróleo de México: Conferencias, 17 ff. El Excelsior reacted to Mexican labor's view by pointing out that the proposal to nationalize industries held by foreign capital, while patriotic, would affect Mexico's credit, increase her debt, and antagonize foreign capital. Since Mexican capital did not exist and capital was needed by Mexico, El Excelsior felt that Mexico could only victimize herself by her ignorance if she drove foreign capital out. See "El Capital Extranjero y Sus Perspectivas," in El Excelsior, March 7, 1938, p. 5.

The stoppage of a public utility, which appeared to be imminent on March 17, 1938, immediately signified the involvement of the government and use of its powers to protect society. According to the Mexican Supreme Court in 1936 public utility

was of three types: public utility in the strict sense, social utility (the need to satisfy at once and directly the needs of a social class), and national utility which required an emergency necessitating the nation to act as an entity.[28] The

[28] Government of México, The True Facts, 189.

state alone would be capable of knowing when public necessity was sufficiently drastic to require expropriation, and the national courts (according to the Permanent Court of International Justice) would be the only interpreters of the national legislation so long as those affected, aliens included, received the benefit of the remedies offered by the state. That would be true even if procedure were different from that of the alien's home state, assuming the standards were not below those of the general level of civilized states.[29]

[29] Ibid., 189-194; 227. See also González Ramírez, El Petróleo Mexicano, 120, and Green H. Hackworth, Digest of International Law, V, 471-472. In 1936 a strike left Mexico City without light or electric power for ten days but did not result in expropriation of those utilities despite the public emergency, however. See El Aguila, The Mexican Oil Strike of 1937: The Expropriatory Decree, 48.

The Mexican government took the final step at ten o'clock on the night of March 18, 1938. President Cárdenas addressed the nation over a radio network and declared:[30]

> The stand taken by the oil companies in refusing to obey the mandates of ... the Supreme Court ... impose upon the Executive of the Union the duty of seeking ... an efficient remedy that shall, once and for all ... prevent the judgments of our courts from being made null and void.... It is obvious that the problem propounded to the Executive Power of the Nation by the Oil Companies ... is not merely a case involving execution of judgment, but a final situation that calls for immediate settlement.... In this matter is involved the very sovereignty of the Nation, that would otherwise be at the mercy of simple strategems on the part of foreign capital....

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[30] Cárdenas, Messages to the Mexican Nation on the Oil Question, 5-6.

Cárdenas then announced that the portion of the oil industry involved in the amparo suit was expropriated by the Mexican nation for cause of public utility. The decree ordered:[31]

> Article 1--The machinery, plants, buildings, oil pipes, refineries, storage tanks, communication ways, tank cars, distributing stations, sea carriers, and all other movable and immovable properties belonging to Compañía Mexicana de Petróleo "El Aguila," S.A.; Compañía Naviera de San Christóbal, S.A.; Compañía Naviera San Ricardo, S.A.; Huasteca Petroleum Company; Sinclair Pierce Oil Company; Mexican Sinclair Petroleum Corporation; Stanford y Compañía Sucesores, S. en C.; Penn Mex Fuel Company; Richmond Petroleum Company of Mexico; California Standard Oil Company of Mexico; Compañía Petrolera El Agwi, S.A.; Compañía de Gas y Combustible Imperio; Consolidated Oil Company of Mexico; Compañía Mexicana de Vapores San Antonio, S.A.; Sabalo Transportation Company; Clarita, S.A.; and Cacalilao, S.A., are hereby declared expropriated, for cause of public utility, vesting them in the Nation, in so far as, in the opinion of the Department of the National Economy, it may be necessary, for the discovery, extraction, storage, refining, and distribution of the products of the petroleum industry.
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> Article 2--The Department of the National Economy and the Department of the Treasury intervening therein as administrator of the properties of the Nation, shall proceed to the immediate occupation of the properties subject to this

expropriation and to draw the respective deeds of seizure.
Article 3--The Department of the Treasury shall pay the corresponding indemnification for the expropriated companies, as provided by Articles 27 of the Constitution and 10 and 20 of the Law of Expropriation, payment to be made in cash and in a term not to exceed 10 years. The funds for effecting this payment shall be appropriated by the Department of the Treasury from a percentage, to be hereafter fixed, of the petroleum by-products produced by the expropriated properties, the product of which shall be deposited, pending legal prosecution, with the Treasury of the Federal Government.
Article 4--The representatives of the companies expropriated shall be notified personally, and this decree shall be published in the Federal Diario Oficial to be in force from the date of its publication.

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[31] Shepard Jones and Denys P. Myers (ed.), Documents on American Foreign Relations January, 1938-June, 1939, pp. 121-122.

The final act in the long-enduring struggle in Mexico over the subsoil wealth of the nation at last had been taken. A fundamental postulate of the government, nationalization of the subsoil and exploitation of its wealth for the benefit of the nation, had been achieved.[32] The consequences of the act,

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[32] Seis Años de Gobierno al Servicio de México 1934-1940, p. 201. See also Miguel Manterola, "El Petróleo de México," in El Trimestre Económico, V, 343.

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not unanticipated, were yet to come. Mexican labor regarded the expropriation as the only act possible for Mexico in her life and death battle with oil imperialism; the act began a new drama in which the conquest of the oil companies had to be

defended by every means in order to preserve the economic independence of Mexico.[33]

[33] Confederación de Trabajadores Mexicanos, C.T.M. 1936-1941, pp. 527-528.

Labor in Mexico was declared to feel itself a part of a new war for independence under Cárdenas' leadership to vivify the dreams of Morelos.[34] The Mexican government declared that

[34] Angel Menéndez, Ideas y Direcciones Políticas, 16.

though a hard and bitter struggle would inevitably follow, Mexico would benefit in the long run.[35] Mexico, in fact, ac-

[35] López Portillo, "Petróleo: La Independencia Económica de México," in Revista de Industria, I, 6.

cording to González Ramírez, had done no more than enforce her internal law, which was in accord with the obligation to establish social justice assumed by the nations of the world at the International Labor Conference of 1919 where Samuel Gompers and the United States had led in the formulation of international labor law.[36] Lombardo Toledano declared that the expropria-

[36] González Ramírez, El Petróleo Mexicano, 112-115.

tion was not an isolated gesture or a demogogic act but a nationalistic act, a legal act in the revolutionary tradition designed to secure respect for Mexican institutions and to negate a deliberately premeditated attack on the constitution and public power of Mexico.[37] To Toledano the political revolution of a century before had at last produced the economic revolution and Mexico had begun to sense her historic destiny.[38]

[37] Speech of Lombardo Toledano, March 30, 1938, quoted in Confederación de Trabajadores Mexicanos, C.T.M. 1936-1941, pp. 543-546.

[38] "Independencia Económica," in El Universal, March 19, 1938, p. 1.

Officials of the Mexican government adopted a similar attitude toward the expropriation. Cárdenas declared on the first anniversary of the expropriation that it had eliminated the old system of concessions and privilege, which had deprived Mexico of its wealth in land, forests, water, and subsoil, to establish the economic and political independence of Mexico.[39]

[39] Lázaro Cárdenas, Discurso Pronunciado por el Sr. Presidente de la República, con Motivo del Aniversario de la Expropiación Petrolera, 3.

Secretario de Relaciones Exteriores Ezequiel Padilla declared

three years later that expropriation was realized in defense of the sovereign dignity of Mexico and to eliminate obstacles to the accomplishment of social conquests.[40] The Secretaría

[40] Ezequiel Padilla before the Mexican Senate, March 7, 1941, in Department of State for Foreign Affairs, Bureau of International News Service, The Continental Doctrine in the Mexican Senate, National and International Problems No. 4, p. 13.

de la Economía Nacional stated that Mexico had added another glorious date to September 16 and November 20 and that politically-independent Mexico had escaped from the yoke of foreign capitalism.[41] The President of the Supreme Court added his

[41] Secretaría de la Economía Nacional, "18 de Marzo de 1938," in Revista de Industria, I, 3.

voice, saying that the sovereign power had to be kept free of calumny and that international justice required respect for the highest tribunals of any country, Mexico included.[42] The

[42] "Discurso del Presidente de la Suprema Corte de Justicia," in Manuel Avila Camacho, Igualidad Democrática de los Pueblos (México ante el Conflicto Mundial). La Justicia Es la Paz, 7-13.

Asociación de Constituyentes de 1917 assembled on March 27, 1938, and resolved that Cárdenas had faithfully executed the purpose of the Constitucion de Querétaro which was designed to

establish legal norms for destroying privilege and for building economic autonomy.[43]

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[43] "Interpretó la Constitución," in El Universal, March 24, 1938, p. 1. The enthusiam for economic independence was not universal. The Instituto de Estudios Económicos y Sociales, "Las Inversiones de Capital Extranjero en los Estados Unidos," in El Economista, II, 11, felt that the tendency to make Mexico economically independent was a form of foolishness which resulted in Mexico's being economically independent but miserable like an island of the South Pacific. Of course, the Instituto and its organ, El Economista, were declared to be a group of oil-company lawyers whose publication was financed, according to rumor, by the oil companies solely to combat the expropriation. See "Implacable Hatred on the Part of a Group of Agents of the Expropriated Petroleum Companies," in El Popular, March 3, 1942, p. 1.

Popular support for the action of Cárdenas came from many quarters. The Rector of the National University of Mexico stated that Mexico, in one of the most solemn moments of its history, had reaffirmed the absolute necessity for foreigners as well as nationals to respect its laws and sovereign courts and was embarking on an effort to break the economic ties holding it back.[44] On March 22, 1938, thousands of university students paraded before the national palace demonstrating their support of the government.[45]

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[44] "Mensaje á la Juventud," in El Universal, March 20, 1938, p. 1.

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[45] "Manifestación Universitaria," in El Universal, March 23, 1938, p. 1.

The great demonstration, however, was that on March 23, 1938, planned by the C.T.M. as early as March 16, 1938.[46] It

[46] See above, pages 401-402.

became more than a labor demonstration. It rose to the proportions of a national declaration in which over two hundred thousand persons marched before the national palace all day long in support of Cárdenas.[47] Cárdenas spoke to the crowd,

[47] "Después de las Palabras, los Hechos," in El Excelsior, March 25, 1938, p. 5.

declaring:[48]

> ... faced by a danger which certainly is not that of armed intervention, the people are responding.... Some economic sacrifice will have to be made, for otherwise it will not be possible to achieve that independence which our people demand. And we are not going to win it by force nor are we going to refuse to pay for what we have expropriated.... We must acknowledge our commitments and obligations, and must answer, by acting on a lofty plane, that campaign which the press of various countries is carrying on against Mexico.... The Revolution, now become a government, will ... save the honor of Mexico. Lastly, it is timely to declare at these solemn moments, so that all countries all over the world may know it, that Mexico will honor her foreign debt.

[48] Speech on occasion of great parade before National Palace, March 23, 1938, in Cárdenas, Messages to the Mexican Nation on the Oil Question. See also "Así lo Declaró Ayer el Gral. Cárdenas," in El Universal, March 24, 1938, p. 1.

The general patriotic fervor which the expropriation released was expressed by a number of Mexican commentators. Gómez Robledo cried that regardless of future hazards in which brute force might compel Mexico to haul down her flag, national dignity would forever remain for Mexico.[49] García Robles

[49] Gómez Robledo, The Bucareli Agreements, 222.

stated that Cárdenas exercised the universally recognized right of national conservation when he expropriated the oil properties.[50] Oscar Marineau felt that the single event of expropri-

[50] García Robles, El Panamericanismo y la Política del Buen Vecino, 64.

ation would give Mexico a new personality and introduce an epoch in her history by ending the Mexican sense of inferiority derived from the conviction among Mexicans that the government had always been a puppet in the hands of a few plutocrats in Wall Street or in Europe.[51] González Aparicio felt that the

[51] Oscar Morineau, The Good Neighbor, 12-17.

business of neutralizing the power of the great international monopolies which for years had disfructified Mexico was a task, at all costs, worthy of a nation which had overcome the internal opposition to its revolution and which could overcome the obstacles put in its way by foreign enemies.[52] El Excelsior,

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[52] González Aparicio, Nuestro Petróleo, 19-29.

Catholic-conservative Mexico City daily, editorialized:[53]

> The government tried by every legal means and every convenient method to solve a situation which grew worse each day. We do not wish to repeat what has been said recently in relation to the maneuvers of the great foreign companies in our economy and in our very political life. No one disputes this point which we know by experience. But it is necessary to reiterate that the executive power worked without precipitateness and with the equanimity which has characterized it. Not one step more away from the national dignity.... The companies had time to discuss the situation and to adopt an attitude which fit into their situation but they decided to reject the judgment of the highest court of the country. They declared they could not comply with the judgment and that they accepted the consequences of this attitude. No other road was left but the nationalization of oil. In these difficult moments all classes, all men, must accept the era of the thin cows with calmness and equanimity.
> We know how to occupy our post, as always: without vain boasting and without fear.

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[53] "Lealtad y Serenidad de Juicio," El Excelsior, March 21, 1938, p. 5.

Certainly expropriation came at an inopportune time economically. Mexico was launched on a vigorous program of land nationalization, irrigation projects, dam building, and high-

way construction, and the awkwardness of a strain in relations with the United States, which was potentially decisive in Mexican internal affairs, was clearly dangerous.[54] That was true

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[54] Scroggs, "Mexican Oil in World Politics," in Foreign Affairs, an American Quarterly Review, XVII, 172.

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regardless of the fact, which scarcely a Mexican would deny, that for twenty years Mexico had been moving slowly (as fast as possible) toward just such a culmination.[55] Immediately

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[55] W. E. McMahon, "Case of the American Oil Companies," in S. D. Meyers (ed.), Mexico and the United States, Proceedings of the Fifth Annual Conference Institute of Public Affairs Auspices Carnegie Endowment for International Peace, 1938, p. 79.

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after the expropriation Cárdenas announced that the peculiar conditions of the oil industry dispute made the action totally exceptional and that it would not be extended to other industries which the government considered essential and viewed with sympathy.[56] Moreover, the companies were invited March 21,

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[56] "La Expropiación No Se Extenderá a Otros Ramos," in El Universal, March 22, 1938, p. 1.

1938, to consult immediately with the Secretaría de Hacienda in order to arrive at an adjustment on the indemnity due them for the properties.[57]

[57] "Circular a las Compañías," in El Universal, March 22, 1938, p. 1.

The companies, however, did not plan to accept the expropriations. Sinclair Oil announced that it could view the situation with a degree of equanimity since for some time Mexican Sinclair had made no contribution to the profits of the corporation. But, Sinclair also declared, it expected the attempt to confiscate the foreign-owned properties to be corrected by "what is still supposed to be the international law against denial of justice and confiscation of property."[58] The President of Standard Oil Company of New Jersey said that his company had not been trying to withdraw from business in Mexico and was willing to undertake further development of Mexican oil resources as soon as it was reassured of freedom from crippling governmental restrictions and labor troubles. The companies presented the Department of State with a brief claiming denial of justice on March 22, 1938.[59]

[58] "U.S. Oil Firms Plan to Fight Seizures," in The New York Times, March 20, 1938, p. 3. On international law and the oil struggle, see Alfonso García Robles, La Question du Pétrole au Mexique et le Droit International.

[59] Ibid. See also Thomson, "Mexico Nationalizes Oil," in Foreign Policy Bulletin, XVII, 4.

The attitude of the United States was cautious. Secretary of State Hull declared on March 21, 1938, that the United States was seriously concerned with the possible outgrowths inherent in the oil problem and that he had conferred with Ambassador Daniels to acquaint him with the American attitude and his hope that an equitable solution could be found before too complex a situation arose.[60] The first departmental conference

[60] Department of State, Press Releases, XVIII, 393.

on the Mexican oil problem was held March 23, 1938, a conference at which the representatives of the Mexican-American oil companies appeared.[61] Diplomatic correspondence on the question

[61] "El Caso de las Compañías Petroleras Fué Tratado Ayer en la Cámara de los Comunes," in El Universal, March 24, 1938, p. 7.

began March 27 or 29, 1938, when Secretary of State Hull sent Mexico a note, reputedly demanding prompt and adequate compensation, which Ambassador Daniels delivered with a request that it not be made public. Mexico apparently rejected the note as formal correspondence on the basis of its secrecy.[62] On March

[62] Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 128. Ambassador Daniels was upset by the note and warned Washington such procedures might cause Cardenas to fall. The Ambassador subsequently was by-passed by Hull in his correspondence with Mexico, according to Kluckhorn, The Mexican Challenge, 123-124.

29, 1938, Ambassador Daniels conferred with Mexican Foreign Secretary Eduardo Hay, and with Secretary Hull, and announced that nothing definite could be said except that a sincere desire to find a solution just and in harmony with American policy existed.[63] Certainly no ultimatum was presented and a real

[63] "Declaraciones de Mr. Daniels," in El Universal, March 30, 1938, p. 1. Or, the gravest turn in Mexican-American relations in a decade was produced by a stiff note demanding clarification of Mexican plans to compensate for the properties, according to Frank L. Kluckhorn, "U.S. Protest on Oil Is Made to Mexico," in The New York Times, March 30, 1938, p. 2.

effort was made to suggest a solution to the controversy acceptable to both parties without producing either chaos or revolution in Mexico or setting undesirable precedents in regard to United States policy in Latin America, a great contrast to 1927.[64]

[64] González Aparicio, Nuestro Petróleo, 28. See also W. T. Stone, "Washington News Letter," in Foreign Policy Bulletin, XVII, 3-4.

Although the calm was broken by suspension of silver purchases on March 28, 1938,[65] Hull stated on March 30, 1938,

[65] See above, Chapter VII.

that the United States government did not question the right

of Mexico, exercising its sovereign power, to expropriate property under its jurisdiction.[66] The reaction of the Mexican government to the American attitude was quick and enthusiastic. President Cárdenas sent a special note to Ambassador Daniels on March 31, 1938, expressing Mexico's feeling:[67]

> My Government considers that the attitude adopted by the Government of the United States of North America in the matter of the expropriation of the petroleum companies reaffirms once more the sovereignty of the peoples of this continent which the statesman of the most powerful country of America, His Excellency President Roosevelt, has so enthusiastically maintained. By this attitude, Mr. Ambassador, your President and your people have won the esteem of the people of Mexico.
>
> The Mexican Nation has lived these last few days through moments of trial in which it did not know whether it would have to give reign to its patriotic feelings or to applaud an act of justice of the neighboring country represented by Your Excellency. Today my country is happy to celebrate without reservations the proof of friendship which it has received from yours and which will be carved in the heart of its people.
>
> Mexico has always wished to maintain its prestige, carrying out its obligations, but elements which did not understand Mexico placed obstacles in the way of this high and noble purpose. Today a new dawn breaks on the future with the opening to it of the doors of opportunity. You may be sure, Mr. Ambassador, that Mexico will know how to honor its obligations of today and its obligations of yesterday.
>
> Mr. Ambassador, it is a satisfaction for the Mexicans to have the friendship of a people which through its President continues to support the policy which is winning for your country the affection of many peoples of the world.

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[66] Department of State, Press Releases, XVIII, 435.

[67] Jones and Myers (ed.), Documents on American Foreign Relations, January, 1938-June, 1939, pp. 123-124.

Secretary Hull acknowledged the Mexican government's response to his statement, declaring that the United States was gratified by the expression of esteem and friendship on the part of Mexico and by her expressed intention to honor her obligations. A prompt, equitable solution seemed likely, Hull thought, and tension between the two countries visibly relaxed.[68]

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[68] Ibid., 124. See also W. T. Stone, "Washington News Letter," in Foreign Policy Bulletin, XVII, 3.

The spring-time exchange of amicabilities continued with a resolution sent by the Chamber of Deputies to the President of the United States, April 18, 1938:[69]

> The members of the Chamber of Deputies of the 37th Congress of Mexico, through the channels of its bloc, see with deep approval your attitude with regard to the economic liberation of the Indo-Spanish peoples and believe that the statement made by you that "International differences of all kinds can be settled by peaceful negotiations" is a foundation for good relations between all the peoples of America. World democracy has found in our President Cárdenas and yourself its two most vigorous representatives. Those composing this Chamber set a historical precedent in clasping your hand, and in the names of the people of our country, that of the American people, which now joins the rest of the continent in interpreting laws which will achieve happiness for all our peoples by the deepest sentiments of social justice.

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[69] Jones and Myers, Documents on American Foreign Relations, January, 1938-June, 1939, pp. 124-125.

The President of the United States responded in kind:[70]

> It is with sincere appreciation that I have received your eloquent message on behalf of the Thirty-Seventh Congress of Mexico, uniting with me in expressing the common aspiration of the peoples of the New World for justice and peace, and our common determination to solve our problems in a spirit of friendly cooperation. It is our present responsibility mutually to apply these principles of fairness and equity to the tasks confronting us, and I am confident that thereby those tasks will be carried to a satisfactory conclusion responsive alike to the desires and interests of our respective citizens. I have been moved by the gracious action of the Congress and I should be happy to ... convey ... my thanks and my personal good wishes.

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[70] Ibid., 125.

The friendly relations of the United States and Mexico had survived, then, the immediate strain of the expropriation of the oil properties.[71] In addition, the C.I.O. in the United

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[71] The exchange of pleasantries did not generate universal enthusiasm in Mexico for the United States. Gómez Robledo rather sourly observed that there was no more occasion to be enthusiastic when Franklin Roosevelt recognized the norms of international law than when the Shah of Persia did. See Gómez Robledo, Etopeya del Monroismo, 114. The cordialities exchanged did produce a rumor that Cardenas acted on expropriation after receiving the prior consent of the President of the United States. This was a lie, according to Angel Menéndez, Ideas y Direcciones Políticas, 56--perhaps a product of Cárdenas' apparently sincere question to a group of foreign correspondents whether Roosevelt was not planning to expropriate the oil industry in the United States. See Kluckhorn, The Mexican Challenge, 49. Ambassador Daniels denied that the United States was informed beforehand of the expropriation, stating that it came entirely unexpectedly. See Frank L. Kluckhorn, "Envoy Says Mexico Caught U.S. Asleep," in The New York Times, March 21, 1938, p. 5. Cárdenas might have been influenced by a Roosevelt speech, noted in Mexico, declaring that it was in essence fascism for a group or an individual to control government and that such private power was increasing and without equal in history. See J. M. Puig Casaurac, Galetea Rebelda á Various

Pigmaliones, 480. The United States, as a defender of democracy contra fascism, could scarcely, in the Mexican view, openly break with Mexico, a country showing the way to economic independence and freedom by ousting the very financiers and oil men opposing the democratic efforts of Franklin Roosevelt in the United States. See Sousa y González Aparicio, 2 Conferencias sobre el Problema Petrolera, 10-13. The usual Mexican caution in regard to the United States was not lacking, however. El Economista pointed out that if, even with Roosevelt, American public opinion could be so agitated against Mexico, what could be expected when Roosevelt's friendship could not be counted on? See "La Querella Petrolera," in El Economista, I, 306. Lombardo Toledano feared that the economic power of the great American trusts had more influence in Latin America than American official declaration of policy, which they ignored, despite Roosevelt. See Lombardo Toledano, La Soberanía Patria y la Defensa Continental, n.p., and even Ezequiel Padilla warned that powerful sectors of public opinion in the United States were imperialistic still. See Ezequiel Padilla, Nuestra Política Internacional: Serie Problemas Nacionales e Internacionales No. 22, p. 20.

States backed the C.T.M. in Mexico and offered to undertake a propaganda campaign among the American people to off-set that of the oil companies against Mexico.[72] John L. Lewis, in fact,

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[72] Confederación de Trabajadores Petroleros, C.T.M. 1936-1941, p. 596. According to Patrick J. Hurley, representative of Sinclair Oil, it was no secret that competing oil companies had organized a propaganda office in New York to give an "adequate orientation" to the news concerning the oil controversy. See Patrick J. Hurley, The Struggle for the Mexican Oil: Statement by Attorney for the "Consolidated Oil Corporation" Made before the Railway Commission of the State of Texas, 6. Hereafter cited as Hurley, The Struggle for the Mexican Oil. Costs to the Mexican companies for publicity presenting their viewpoint from June, 1936, to March 18, 1938, were 926,582.48 pesos, according to Sindicato de Trabajadores Petroleros, La Cuestión Petrolera, 9.

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visited Mexico in the fall of 1938 and supported the work of Mexican labor.[73] Edwin S. Smith of the National Labor Relations

[73] Kluckhorn, The Mexican Challenge, 67.

Board was also present in Mexico in September, 1938, at a meeting called by the C.T.M. to organize an inter-American labor federation.[74]

[74] Hartly W. Barclay, "Red Labor Marches in Mexico," in Mill and Factory, October, 1938, p. 32. Reprint.

CHAPTER XII

EXPROPRIATION: REPERCUSSIONS WITHIN AND WITHOUT MEXICO

Diplomaticly the United States and Mexico corresponded no further on the question of the oil expropriation for some two months after April, 1938. Mexico had declared its willingness to pay and Roosevelt had remarked that the oil companies had a legitimate right to compensation for their actual investment less depreciation incident to operations but not for claims based on prospective profits.[1] The United States had already reaffirmed the Monroe Doctrine through Undersecretary Welles' statement that:[2]

> ... any attempt on the part of non-American powers to exert through force their political or material influence on the American continent would immediately be a matter of the gravest concern not only to the United States but to every other American republic as well.

In the same speech Welles had declared that foreigners resident in a country were subject to its laws, but that expropriations should be indemnified.[3]

[1] Shepardson and Scroggs, The United States in World Affairs: 1938, pp. 244-245.

[2] Thomson, "Washington News Letter," in Foreign Policy Bulletin, XVII, 4.

[3] Ibid.

Drastic American action clearly was not forthcoming. United States policy evidenced a desire to maintain pan-American unity at almost any cost, which made intervention in Mexico impossible.[4] Latin-American views on intervention were well

[4] Stone, "Washington News Letter," in Foreign Policy Bulletin, XVII, 3-4.

known. Mexico's Castillo Nájera at the Buenos Aires conference of 1936 had proposed, with considerable Latin-American support, that diplomatic pressure on governments in favor of pecuniary claims be abandoned,[5] and the Eighth Pan-American Conference

[5] Shepardson and Scroggs, The United States in World Affairs: 1938, p. 294. The conference agreed that intervention by one American country in another would be sufficient cause for calling a meeting of the council of American nations. See Kirk, Covering the Mexican Front, 192. The Eighth Conference in 1938 adopted a resolution outlawing armed force or diplomatic intervention among the American nations for the collection of public or contractual debts or claims, permitting appeals to arbitration, however, on the issues of unjustified repudiation, violation of contract, denial of justice, or infraction of a generally recognized international duty. See Prewett, Reportage on Mexico, 128.

was scheduled to assemble in Lima in 1938. Even though the expropriation by Mexico placed a strain on the Good Neighbor Policy of the United States, the possibility that it might

afford opportunity for hostile, non-American forces to gain influence with Mexico and Latin America was more to the point than the expropriation itself.[6] Apparently the State Department felt that Cárdenas' political position depended on the success of expropriation and was not willing to precipitate a Mexican political crisis in a time of world crisis.[7]

[6] Scroggs, "Mexican Oil in World Politics," in Foreign Affairs, an American Quarterly Review, XVII, 172-174.

[7] Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 132. See also Thomson, "Washington News Letter," in Foreign Policy Bulletin, XVII, 3.

Former Governor Marland of Oklahoma, once an independent oil man in Mexico, declared that Mexican petroleum was needed by the United States to protect its reserves; hence the common welfare and even the safety of the nation might depend on good relations with Mexico and her continuous production of oil.[8]

[8] Kirk, Covering the Mexican Front, 167.

Even a spokesman for the American oil companies agreed that the future of American foreign policy, even perhaps of democracy in the Western Hemisphere, depended on the United States handling of the Mexican crisis.[9] Since friendship with Latin

[9] McMahon, Two Strikes and Out, 143.

America was essential to American policy, it was necessary to avoid any move which would cause an unfavorable reaction throughout Latin America. Intervention in Mexico under those circumstances was unthinkable in 1938.[10] The policy which was

[10] John Holiday Latane and David W. Wainhouse, A History of American Foreign Policy, 1776-1940, pp. 870-871.

followed was so acceptable to Mexico that her President could say to the President of the United States in 1943 that the new policy of the United States was so in accord with that of Mexico that it could be proclaimed as Mexico's own[11] -- a vast change

[11] Manuel Avila Camacho, Buenos Vecinos, Buenos Amigos. Discursos Pronunciados por los Presidentes de México y los Estados Unidos de América en Monterey, N.L., el 20 de Abril de 1943, p. 6. Such unity, a cautioning voice warned, was dangerous, for Roosevelt would not always be President and the Good Neighbor Policy could be replaced with another. Mexico should have no illusions, according to J. Silva Herzog, La Revolución Mexicana en Crisis, 37-38.

from 1917 or 1927.

The oil companies suggested to the Department of State three times (May 9, June 16, and July 25) in 1938 that the oil question be submitted to arbitration by a group selected from the Permanent Court of Arbitration which should adjudge

the issues of denial of justice, legality of the decree of March 18 in international law, and the validity of the seizure of the oil lands without compensation.[12] Mexico, on the other hand,

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[12] Standard Oil of New Jersey, The Fine Art of Squeezing, 21. Of course, Mexico was to agree in exchange that pending the arbitral decision the pre-March, 1938, status quo was to be restored. Ibid.

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continued to move against the oil companies through her courts.

The Supreme Court on May 10, 1938, issued a decision on a suit for amparo placed before it by the Huasteca Company in 1918. The case involved an appeal for protection against the enforcement of a Carranza decree affecting full property rights to pre-1917 subsoil possession. In its decision of 1938 the Supreme Court denied the petition, in effect setting aside the protection given to subsoil property rights gained for pre-1917 owners and lessees by the Texas Company decision of 1921.[13]

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[13] Standard Oil of New Jersey, Denials of Justice, 4. For the Texas Company decision, see above, Chapter V.

In September, 1938, a similar ruling was made on a petition of the Tuxpam Company dating from 1918. By December, 1939, the Supreme Court ruled flatly that oil was not property until reduced to possession[14] and therefore did not have to be indem-

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[14] Standard Oil of New Jersey, Present Status, 38.

nified in expropriations. The work of the Bucareli Conference in regard to pre-1917 vested interests in the subsoil was, therefore, reduced to shreds as was also the Morrow-Calles agreement of 1927.[15]

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[15] Gomez Robledo, The Bucareli Agreements, 207. See also Standard Oil of New Jersey, Reply to Mexico, 39. The Supreme Court decision recapitulated and declared legal virtually all of the contentions of the Mexican government in regard to subsoil wealth since 1917, the contentions that the Constitution of 1917 revived Spanish-Mexican fundamental law, suspended earlier laws recognizing ownership of subsoil wealth, that property rights existed only in captured petroleum, that concessions granted only the right to try to capture subsoil wealth, that such concessions granted by the state were subject to expropriation with compensation to equal what the concessionary paid, plus his legitimate investments in properties, real estate at tax values, and installations at depreciated costs. See Person, Mexican Oil, 57.

The last extended memorandum of the American oil companies to the Department of State was in October, 1938. Again the oil companies asked protection on the grounds of confiscation and denial of justice. The companies insisted that the issue was the legality of Mexico's acts, not the indemnity she should pay. Mexico's conduct flouted accepted principles in international law and thereby endangered the whole structure of international business, and the responsibility for protecting both of those things, according to Standard Oil, rested not only on the government committing the acts but on the home governments of foreigners affected by them. International morality was involved and to fail to uphold it encouraged others to imitate

the immoral. Furthermore, Standard Oil maintained, the right of home governments to intervene to protect their nationals who invested in foreign corporations was not debatable.[16]

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[16] Standard Oil of New Jersey, Confiscation or Expropriation? Mexico's Seizure of the Foreign-Owned Oil Industry, 5 ff. See also Standard Oil of New Jersey, Mexican Expropriations in International Law, October, 1938, typescript, and Standard Oil of New Jersey, Diplomatic Protection. See also Henry J. Allen, The Mexican Confiscations Together with a Careful Survey of the Present Revolutionary Trends in Mexico and Edwin M. Borchard, The Diplomatic Protection of Citizens Abroad or The Law of International Claims.

In regard to the last contention, the Mexican government pointed out that shareholders in a foreign-registered corporation had no connection with the corporation other than their shareholding and could not claim damages as individuals when the corporation was damaged. The practice followed by the General Claims Commission of Mexico and the United States had been in accord with that rule.[17] Payson S. Wild declared that

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[17] Government of Mexico, The True Facts, 240-249. See also Ernesto Enríquez, Evolución del Derecho Internacional Mexicano en los Ultimos Treinta Años (1912-1942).

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international law was not irrevocably settled in regard to private property and expropriation and that unqualified declarations that private property could not be expropriated without compensation did not rest on solid facts but slender precedents.[18]

[18] Payson S. Wild, "International Law and Mexican Oil," in The Quarterly Journal of Inter-American Relations, I, 6 ff.

A portion of the American press reacted more nearly according to custom. The New York Enquirer felt that:[19]

> No nation as powerful as ours with justice so completely on its side, would have tolerated for twenty-four hours the challenge to international honesty which the "red" administration at Mexico City has flung in the face of Uncle Sam, if its foreign affairs were conducted with true statesmanship.

[19] McConnell, Mexico at the Bar of Public Opinion, 120, quoting the New York Enquirer.

And T. W. Woodlock of the Wall Street Journal felt that:[20]

> For twenty-five years ... Mexico has been a thorn in the side of the United States. Her dealing with us has at all times been predicated on the certainty that whatever happened she could count upon our abstention from the use of force and upon a degree of patience under provocation approaching that of Job himself.

[20] Ibid., 64, quoting the Wall Street Journal.

The New York Times touched the crux of the matter:[21]

> It is necessary to recognize frankly that the situation created by this disagreement between the two countries threatens to have highly disturbing consequences for both of them in a number of different ways. This is a development which may readily lead to international complications; for other countries as well as the United States are heavily involved in the seizure of foreign property in Mexico.

[21] Ibid., 70, quoting the New York Times.

In particular Latin America was absorbed in Mexico's struggle with the oil industry. Justice Icaza of the Supreme Court of Mexico pointed out that the oil companies would willingly pay fifty million pesos if they could prove to all Latin America that Mexico still could not order them about. Unless they did so, the petit pays chaud might set an example that all South America would emulate.[22] President Cárdenas did not fail

[22] "Perdieron el Amparo las Empresas Petroleras," in El Universal, March 2, 1938, p. 8.

to exploit Latin-American sympathy for Mexico, for in 1938 he appealed to all Latin-American nations to unite to defend themselves against the possibility of their being victims of economic, social, or political imperialism.[23] In that connection

[23] Kirk, Covering the Mexican Front, 201.

it should be noted that in 1934 over 80% of security investments held by United States citizens in Latin America were in default but direct investments still were earning an average of 6% in 1938.[24] The United States problem was to formulate

[24] Willy Feuerlein and Elizabeth Hannan, Dollars in Latin America: An Old Problem in a New Setting, 47. See also Shepardson and Scroggs, The United States in World Affairs: 1938, pp. 260-261.

a policy that would protect American interests so that a precedent would not grow out of Mexico's action and yet would avoid upsetting American policy based on continental solidarity.[25]

[25] Thomson, "Mexico Nationalizes Oil," in Foreign Policy Bulletin, XVII, 2.

Mexican delegations were sent to most of the Latin-American countries and to parts of the United States to explain Mexican policy.[26] The possibilities of the adoption of the

[26] "Repercussions South of Mexico," in The Atlantic Presents: Trouble below the Border, I, 53.

Mexican program by other small countries in America were real enough not only to disturb the United States but to arouse the interest of non-American states desirous of weakening the American foreign policy outside the Western Hemisphere.[27] The un-

[27] Waugh, Robbery under Law, 88. See also Kirk, Covering the Mexican Front, 203, and W. S. Culbertson, "Our Interest in the Expropriation of Oil in Mexico," in The Atlantic Presents: Trouble below the Border, I, 17-20.

fortunate conjunction of interests of both domestic and foreign opponents of the United States in Latin America complicated the American task considerably.

Latin America faced a dilemna itself. If it combated European fascism, according to the Rector of the University of Lima, it automatically favored the imperialistic interests of England and the United States and if it favored fascism, it faced no alternative but a change of masters.[28] Mexico, the

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[28] José Antonio Encinas, "A Latin American Appraisal," in S. D. Meyers (ed.), Mexico and the United States, Fifth Annual Conference Institute Public Affairs Auspices Carnegie Endowment for International Peace, 1936, p. 193.

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first to approach the Gordian knot, was watched by all South America as a laboratory in which political and economic experiments were made by the advance guard of Latin-American tradition and civilization, the example of courage and patriotism in the economic field.[29]

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[29] Ibid., 182.

The contagion of the Mexican example was illustrated by Cuba's enactment in May, 1938, of a petroleum law which reserved all mineral rights to the state, limited concessions to thirty years, and set a 10% royalty on all production--although Cuba was completely non-oil producing.[30] Fulgencio Batista,

[30]Shepardson and Scroggs, The United States in World Affairs: 1938, p. 263.

president of Cuba, visited Mexico for ten days, inspected various projects of the government, and returned to Cuba to announce a left-of-center policy for Cuba and free speech and free elections.[31] Batista declared that the Mexican revolution not only

[31]Paul B. Taylor, "Batista Visits Mexico," in Foreign Policy Bulletin, XVIII, 2. See also Weyl, Reconquest of Mexico, 250.

served Mexico but influenced all America to hope for a rebirth of freedom.[32]

[32]Kirk, Covering the Mexican Front, 203.

Bolivia in 1937 had anticipated Mexico by ordering Standard Oil of New Jersey to cease operations within the country, an order that was to be tested before the courts in 1938.[33]

[33]Shepardson and Scroggs, The United States in World Affairs: 1938, p. 262.

Bolivia's action had not been protested officially by the United States.[34] The Bolivian Minister to Mexico declared in June,

[34]Feuerlein y Hannan, Dólares en la América Latina, 113.

1938, that Bolivia closely followed the policy of Mexico, whose socio-economic pattern was so important that in effect the political, social, and economic fortune of Indo-America rested upon it.[35]

[35]Kirk, Covering the Mexican Front, 203. According to Gomez Robledo, The Bucareli Agreements, 36-37, the Bolivian-Paraguayan war over the Gran Chaco Boreal was a war in reality between two great oil trusts with patriotism furnishing men and valor, and the trusts furnishing arms.

Costa Rica's former president, León Cortés, declared before the Mexican Senate that Mexico's formulas for the solution of her problems were the envy of the majority of the Latin-American nations. In August, 1938, Costa Rica attempted to nationalize the light, power, transportation, and telephone utilities serving the national capital.[36] Colombia declared petroleum pro-

[36]Kirk, Covering the Mexican Front, 203. See also Shepardson and Scroggs, The United States in World Affairs: 1938, p. 263.

duction to be a public utility and therefore subject to expropriation while Chile in 1939 made distribution and sale of oil a government monopoly, and ordered Dutch Shell and Standard Oil to liquidate their properties of that type.[37]

[37]Brooks, Peace, Plenty, and Petroleum, 155.

Ecuador enacted a mining law based on that of Mexico and her Minister to Mexico declared (1941) that Mexico was furnishing all America with a standard for a new international policy of ideals, not convenience.[38] Even Brazil, although not an

[38]Weyl, Reconquest of Mexico, 250. See also Kirk, Covering the Mexican Front, 203, and Shepardson and Scroggs, The United States in World Affairs: 1938, p. 269.

oil producing state, nationalized the oil industry and decreed that all petroleum deposits were to be exploited only by the government and that all refineries were to be government-owned.[39]

[39]Brooks, Peace, Plenty, and Petroleum, 154. See also Shepardson and Scroggs, The United States in World Affairs: 1938, p. 261.

Finally, Uruguay expropriated six American and British-owned oil refineries.[40]

[40]Kirk, Covering the Mexican Front, 201.

In the face of hemispheric-wide support for and emulation of Mexico, the United States government simply dropped the subject of the oil expropriations for the time being, instead

picking up the old and more respectable issue of claims, driving steadily but not relentlessly for a settlement in the field and achieving it, as described earlier.[41] Admirably enough it

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[41] See Chapter VI.

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solved an old problem, prepared the way for a solution of the new one, and roused no new inter-American antagonisms.

The British government's reaction to the expropriation of the oil properties was considerably more vigrous (and traditional) than that of the United States. Britain's effort at being stern, despite the lead of the United States along a milder course, was surprising, but Britain had more at stake in Mexico in 1938 than the United States, perhaps.[42] The European situa-

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[42] Thomson, "Washington News Letter," in Foreign Policy Bulletin, XVII, 3.

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tion in 1938 threatened British security in the Mediterranean so that greater rights than property rights were involved for Great Britain.[43] The necessity of Britain to ship oil through

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[43] "The Problem in Mexico," in The New York Times, June 25, 1938, p. 14.

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the Mediterranean in the event of war in Europe was certain to have been removed by the full development of the Poza Rica con-

cession granted to El Aguila in late 1937.[44] Since the Medi-

[44] Ibid.

terranean was insecure, the British fleet potentially was dependent on American oil for its supply and if Mexico succeeded in her nationalization, the other chief source, Venezuela, could be influenced dangerously by her example.[45] Britain was

[45] "Mexico May Sell Oil to Japanese," in The New York Times, March 26, 1938, p. 3. See also Thomas Curtin, "Black Gold in Mexico," in The Atlantic Presents: Trouble below the Border, I, 21-29.

inclined to count Mexican oil as a part of her reserves and its loss provoked a member of parliament to ask the government if the full meaning of the loss of an oil supply which did not have to cross the Mediterranean was realized by the government.[46]

[46] José López Portillo, "Las Reservas Petroleras Mexicanas," in Revista de Industria, I, 12.

The substantial loss to British investors was not overlooked by one correspondent to the London Times who declared that if Mexico's venture was successful, security for British investors everywhere in the world would be lost.[47]

[47] "Letters to the Editor," in The Times (London), March 24, 1938, p. 10.

Prior to expropriation the British embassy in Mexico was in constant communication with the American State Department. British Ambassador Owen St. Clair O'Malley called on Ambassador Daniels after expropriation to express surprise at the Mexican government's action after the companies had offered to pay the full award, a capitulation brought about primarily by pressure on the companies from the British government.[48] El Aguila itself (85% British owned) declared that it was ready and anxious to continue operations in Mexico, the statement being made before a general meeting of the stockholders of Shell Transport and Trading Company by the chairman, Lord Breasted.[49]

[48] "La Actitud del Gobierno Americano," in El Universal, March 20, 1938, p. 10. See also Frank L. Kluckhorn, "U.S. Protest on Oil Is Made to Mexico," in The New York Times, March 20, 1938, p. 2, and Kluckhorn, The Mexican Challenge, 115.

[49] "Company Meetings: Shell Transport and Trading Company," in The Times (London), June 22, 1938, p. 23. Lord Breasted also said that although Shell had only a small financial interest in El Aguila, it nevertheless was this small group which managed the business of the company. He also denied that El Aguila ever interferred in the political affairs of Mexico or had been operated to benefit Canadian Eagle. See ibid.

The first official correspondence between Mexico and Britain over the problem was on April 8, 1938, when Mexico received a note from Britain which reminded Mexico that Britain was reserving her rights in the case of El Aguila since it was a com-

pany in which Britons were heavy investors. Britain, the note stated, had not protested earlier in expectation that Mexico would recognize and adjust the unfair treatment meted out to El Aguila. The opinion of the British government was that only return of the properties would remedy the injustice to El Aguila, which would treat its workers freely and liberally. Britain recognized, however, the right of Mexico to expropriate any public utility by means of adequate compensation but did not feel that the principle justified arbitrary use of the power it conferred. In fact, Britain did not feel that the Supreme Court of Mexico had based its confirmation of the Labor Board's award on facts or that the proofs supporting the award were adequately or properly considered. Still further, Britain did not feel that failure to comply with the award justified expropriation if Mexico's real object were merely execution of a judgment to benefit the workers. The British government, as a matter of fact, had arrived at the conclusion that the true nature of the expropriation was political, and expressed the desire of Mexico to gain permanently the advantages of the property and control of the oil fields. The British government therefore felt that the expropriation was equivalent to confiscation carried out under the appearance of legality and that its consequences were a denial of justice and a violation of the principles of international law. Britain formally requested, therefore, the return of the properties.[50]

[50]British note to Mexico, April 8, 1938, in Memoria de la Secretaría de Relaciones Exteriores, Septiembre de 1937-Agosto de 1938, I, 93-95.

The note from the Chamberlain government in Britain was severe enough to provoke one Mexican to declare that Mexico suspected Chamberlain's attitude to be caused not only by his close connections with Lord Deterding of Dutch Shell but also by irritation at Mexico's attitude (contrary to Britain's) in the League of Nations toward the Spanish civil war, the Austrian anschluss, and the Chinese "incident."[51] The British

[51]Alejandro Carrillo, The Mexican People and the Oil Companies, 24.

The British government went so far as to deny through Ambassador O'Malley that the note of April 8, 1938, was written at the instigation of El Aguila, which statement had been made in the press and at a meeting of the lawyers' union of the Federal District in Mexico.[52]

[52]Memoria de la Secretaría de Relaciones Exteriores, Septiembre de 1937-Agosto de 1938, I, 97.

The Mexican government replied to the British note on April 12, 1938:[53]

The Mexican government ... can do no less than point out

> that even supposing numerous British investors to be very interested in the situation through the company mentioned, it is a Mexican company and in consequence it is not in the province of any foreign state to protect it.... Mexico can not admit that any state, under the pretext of protecting the stockholders of a Mexican company can deny the existence of the juridical personality of associations organized in Mexico and in accord with our laws .... my government considers it necessary to declare that a principle of International Law universally accepted attributes to all sovereign and independent countries the right to expropriate for cause of public utility with the payment of adequate compensation; moreover, the said principle admits that the causes of public utility may be determined at the full discretion of each state, with an amplitude as wide as the social circumstance and of the type which each case may require. In consequence, the government of Mexico does not at all admit the unfounded limitation which is pretended to exist in regard to the right of expropriation, since to permit this would produce the erroneous conclusion that expropriation was legal only in thoses cases in which the state was compelled by a law to order it, since this faculty can and must be exercised at the discretion of the public power ... the resistence of the companies was based, according to their declarations, on the impossibility of paying the sum for which they have been condemned; this supposed economic incapacity was exposed by the offer which the same companies made afterward to pay the sum due when it was too late.... It is clear that the principal object of the companies' opposition was to create economic and political difficulties for the government of Mexico.... "El Aguila," by virtue of being a Mexican company, is unable legally to recur to a foreign state for protection of its interests.

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[53] Mexican note to the British government, April 12, 1938, in Memoria de la Secretaría de Relaciones Exteriores, Septiembre de 1937-Agosto de 1938, I, 99-102. Beginning with that note the correspondence between Mexico and Britain was without the customary diplomatic courtesies, titles dropping to a mere "Sr. Minister." See also Diplomatic Notes Exchanged between the Mexican and British Governments on Account of the Oil Industry Expropriation.

The Mexican note, which included a statement that denial of justice could not be held to have occurred while the case

was still before the courts, was answered by Britain on April 21, 1938. The British message declared that--although the case was indeed still before the Mexican courts--in view of the period which might elapse before the termination of proceedings in the Mexican courts; the failure of the Mexican government to await the outcome of the proceedings; the damage already inflicted on British stockholders; and the British government's conviction that Mexico's action was contrary to equity and normal international practice, the British government felt entitled to present its view of the case to the Mexican government without delay in the hope that the action might be reconsidered.[54]

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[54] British note to Mexico, April 21, 1938, in Curtis (ed.), Documents on International Affairs, 1938, I, 466.

The Mexican reply to Britain came on April 25, 1938:[55]

> My Government do not admit that there has been a denial of justice, still less that immediate diplomatic intervention is in order in spite of the fact that the Courts have as yet taken no final decision in the matter, since it is a universally recognized principle of International Law that no Government can allege the existence of a denial of justice to its nationals until the latter have exhausted all their legal resources; that is to say, until the courts of the country have had their last word.... A denial of justice only exists, as the term itself implies, when justice has been falsely or erroneously administered or when its administration has been hindered or prevented. In the case under discussion neither are such circumstances present, nor have the Government departed in any way from equity or from the usual norms established by International Law, nor have the shareholders ... suffered any diminution of their patrimony since the Company will be duly compensated.

[55] Mexican note to Britain, April 26, 1938, in ibid., I, 468-469.

Mexico rejected completely the British contention that a foreign state could intervene in the interest of the British stockholders in a Mexican corporation, maintaining that El Aguila was a Mexican company exclusively under the jurisdiction of Mexican law and pointing out that the cases in international law upholding the British view were exceptions to the rule rather than the rule.[56] British Undersecretary of Foreign

[56] Government of Mexico, The True Facts, 231-234. See also Enríquez, Problemas Internacionales, 62; Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 129; and Confederación de Trabajadores de México, C.T.M. 1936-1941, p. 597.

Affairs Richard Butler announced that the marketing of oil from the expropriated properties by British subjects would be embarrassing to the British government.[57] By May 11, 1938, the Bri-

[57] Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 129.

tish government had prepared an answer to the Mexican government. The note dealt not directly with the expropriation but with an overdue payment on the settlement of special claims made between Mexico and Britain in 1935. Under the terms of

the agreement Mexico had consented to pay Britain 3,795,697.53 pesos in eleven annual installments, of which the first two had been paid promptly. In May, 1938, the third installment was four months overdue, the British government pointed out, and therefore Britain demanded immediate payment of 370,962.71 pesos, at the same time analyzing the Mexican debt and implying that Mexico was not financially able to pay--a thoroughly insulting attitude.[58] Mexico responded quickly to the goad, sent

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[58] René Marchand, L'Effort Democratique du Mexique, 171. See also British note to Mexico, May 11, 1938, in Curtis (ed.), Documents on International Affairs, 1938, I, 469-471; Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 129; and Shepardson and Scroggs, The United States in World Affairs: 1938, p. 246. Betty Kirk declared that she informed the British Ambassador that the check Britain demanded in its note (for less than $100,000 U.S.) was on the way before the British note was sent, but the embassy sent it on anyway. See Kirk, Covering the Mexican Front, 192. The British Trade Union Congress resolved sympathy with the Mexican labor unions in the struggle, however. See Confederación de Trabajadores de México, C.T.M. 1936-1941, p. 597, and Third Diplomatic Note from British Government and Reply from Mexican Government in Connection with Oil Industry Expropriation.

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a check for 361,737.17 pesos (the correct sum, according to Mexico) with a sharp remark concerning the failure of Britain promptly to pay its war debt to the United States (for considerably more than $100,000 U.S.), declared the attitude of Britain in the oil question was unfriendly and her analysis of Mexican finances impertinent, and recalled the Mexican Ambassador from London. The British government was left with no alternative but to follow suit and on May 14, 1938, recalled its Ambassador

from Mexico City. Relations thus broken were not resumed until October, 1941.[59]

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[59] "Renewal of Diplomatic Relations with England," in Mexico News, I, 2. See also Kirk, Covering the Mexican Front, 192; Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 129; and Shepardson and Scroggs, The United States in World Affairs: 1938, p. 246. The Mexican note is printed in Curtis (ed.), Documents on International Affairs, 1938, I, 471. The break in relations was the second in less than a generation between Mexico and Great Britain. In 1924 the Mexican government had declared the British minister persona non grata due to his conduct in a quarrel between Mexico and a Mrs. Evans, a British subject, over the expropriation of her lands. When the British government refused to withdraw Minister Cummins, the British Embassy was cut off from telephone service and food deliveries. Finally Britain withdrew her minister and broke off relations. See Mexico No. 1 (1924). Correspondence Respecting the Withdrawal of Mr. H. A. Cummins from Mexico Presented by the Secretary of State for Foreign Affairs to Parliament by Command of His Majesty. The Netherlands' government protested to Mexico on October 27, 1938, that the attitude of Mexico after expropriation seemed to the Netherlands to indicate a refusal to acknowledge fundamental rules of international law. It therefore asked return of the properties or prompt, adequate, and effective compensation. See Netherlands note to Mexico, October 27, 1938, printed in Curtis (ed.), Documents on International Affairs, 1938, I, 472.

Opposition to the Mexican government took a revolutionary form as well as a diplomatic one in May, 1938. Revolution had been predicted by the head of an oil-marketing association, who declared that the Mexican army would revolt and sweep the visionaries from power.[60] According to Boraces, French inter-

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[60] Weyl, Reconquest of Mexico, 281.

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mediaries of the oil companies were advised to be patient, that

within fifteen days rebellion in Mexico would occur and destroy the government.[61] Three widely separated foreign newspapers

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[61] Boraces, El Petróleo Mexicano ... ¿Es "Cosa Robada?" 53.

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also predicted revolt. Paris Soir pointed out that each conflict between the oil companies and the government previously had precipitated revolution; the Houston Post declared that the situation was precisely the sort which in the past had led to revolutions; and the London Times warned that financial insecurity had aroused domestic opponents of Cárdenas to the point that they hoped for a quick revolutionary outbreak.[62]

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[62] Ibid., 51; McConnell, Mexico at the Bar of Public Opinion, 90; and The Times (London), March 29, 1938, p. 15.

A leader for the widely anticipated revolutionary movement in Mexico was available. Saturnino Cedillo had a long record of participation in Mexican governments and revolutions. He had been a member of the Orozquista movement against Madero in 1911 and had supported Victoriano Huerta in 1913.[63] A sensitive

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[63] Mario Gill, Sinarquismo: Su Origen, Su Esencia, Su Misión, 45. Gill (Carlos M. Velasco Gil) documents his rather sensational work with purported photostatic copies of correspondence. Hereafter cited as Gill, Sinarquismo.

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general and a strong Catholic, Cedillo was Secretario de Agri-

cultura in the early months of Cárdenas' presidency. Cedillo had resigned his position in the Cárdenas' government and had retired to his large estate in San Luis Potosí prior to 1938. By 1938 his plans for a rebellion against Cárdenas were openly discussed.[64]

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[64] Ibid., 45. See also H. P. Smolka, "The Mexican Conflict," in The Times (London), March 30, 1938, p. 15. Revolt of some sort was expected after expropriation despite the fact that all state governors convened in Mexico City, March 22, 1938, and under the leadership of the governor of Vera Cruz, Miguel Alemán, backed the federal government unanimously. See Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 127.

Cedillo, wealthy and with peon dependents available in large numbers, began to construct an armed force, at one time rumored to number 15,000.[65] Cedillo's military advisor was

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[65] Charles A. Thomson, "Latin America for the Latin Americans!" in Foreign Policy Bulletin, XVII, 1.

Ernesto von Merck, police chief in San Luis Potosí during Cedillo's governorship and reputedly a member of the German General Staff during World War I.[66] Airplanes and contraband arms

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[66] "Cárdenas Rushes Men to Rebel Area," in The New York Times, May 26, 1938, p. 15. See also Strode, Timeless Mexico, 345, and Gill, Sinarquismo, 45.

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were bought in the United States and Cárdenas finally ordered

Cedillo to leave San Luis Potosí and go to Michoacán, Cárdenas' home state, although no effort was made to enforce the order.[67]

[67] Gill, Sinarquismo, 45, and Thomson, "Latin America for the Latin Americans!" in Foreign Policy Bulletin, XVII, 1.

With expropriation, the potential Cedillista revolt became of interest to many groups in Mexico. Cárdenas flatly declared that Cedillo had tried to arouse rebellion throughout the Mexican republic and linked his name with agents of the oil companies who, he said, had come to Mexico before and after expropriation hoping to find traitors.[68] Opposition to expropri-

[68] Lázaro Cárdenas, Discurso Pronunciado en la Ciudad de San Luis Potosí, S.L.P., el 18 de Mayo de 1938, p. 5.

ation was expressed by some officers of the Mexican army, among them General Fortunato Zuagna, and five colonels issued a public statement accusing Lombardo Toledano of trying to convert Mexico into another Spain under a proletarian dictatorship.[69]

[69] "Army Mule Kicks Back," in The Atlantic Presents: Trouble below the Border, I, 33.

Cedillo, widely regarded as the Mexican Franco, was known to advocate fascistic methods and consequently also attracted

the attention of various branches of the world-wide fascist movement of the 1930's.[70] Several such branches existed in

[70] Carrillo, The Mexican People and the Oil Companies, 281.

Mexico in 1938. Mexico, according to Verna Millan, was one of the first American states to receive Gestapo agents from Hitler. A new courtship of Spain was developing in Latin America as its attitude toward the United States became more reserved, typified by Gómez Robledo's attack on the Monroe Doctrine which had been credited with saving Latin America from the fate of Africa by Samuel Flagg Bemis in a speech. Gómez Robledo declared that three centuries of Spanish rule did more to distinguish Latin America from the Congo than the Monroe Doctrine.[71] If anything

[71] Gómez Robledo, The Bucareli Agreements, 200. See also George P. Hammond, "Latin-American Attitudes toward the United States," in S. D. Meyers (ed.), The Southwest in International Affairs, Proceedings of the Third Annual Conference Institute of Public Affairs Auspices Carnegie Endowment for International Peace, 1936, p. 101.

could save Mexico from the preponderance of the United States, Puig Cadena declared, it would be the new thesis of Ibero-Americanism of which Germany was an ardent supporter.[72] The Falange

[72] Puig Cadena, La Expropiación Petrolera, 103.

Española was active also in Latin America as the "Hispanidad" thesis was propagandized in Mexico.[73] The Spanish Hispanidad

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[73] Gill, Sinarquismo, 134. That more than coincidence linked the fascist movements in Europe and Latin America is evidenced by the formation of the Rome-Berlin-Tokyo axis in 1940, the statement of Adolph Hitler that a new Germany could be created in South America, and the declaration of Franco that Spain's foreign policy was dedicated to the spiritual reconquest of Latin America. See Kirk, Covering the Mexican Front, 264. Moreover, after Japan attacked the United States in December, 1941, and the Philippines fell, Franco awarded medals to the Falange Española leaders in the Philippines, after the Emperor of Japan had declared Japan would never forget her debt to the Falange Española there. See ibid., 291. See also Hermann Rauschning, The Voice of Destruction, 63 ff.

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movement had its followers, as did Sinarquismo, founded in May, 1937. Los Dorados (the Gold Shirts) was organized in Mexico with Nicolas Rodríguez as leader. The Falange Española also was active in Mexico with headquarters in Mexico City.[74]

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[74] Verna Millan, Mexico Reborn, 241. See also Gill, Sinarquismo, 45 ff.; Miguel Magin Cervantes, La Revolución Extraviada, 202; and Kirk, Covering the Mexican Front, 279-283; 317.

Cedillo enjoyed cordial relations with the German legation in Mexico City and warm correspondence between Von Merck, the German ambassador, and Cedillo was exchanged in September, 1937.[75] Leon Trotsky, in exile in Mexico, publicly declared

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[75] Gill, Sinarquismo, 46. See also Millan, Mexico Reborn, 241; "Cárdenas Rushes Men to Rebel Area," in The New York Times, May 26, 1938, p. 15; and Carrillo, The Mexican People and the Oil Companies, 28.

that anti-American and anti-British feeling demonstrated during the oil strike was fostered by German agents.[76] According to

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[76] Prewett, Reportage on Mexico, 119. June 2, 1942, Hitler announced the conferring of the Cross of Merit on several hundred regional leaders of the Nazi Party who had arrived in Lisbon after meritorious work in Mexico and Latin America. See Kirk, Covering the Mexican Front, 328.

Hal Burton, New York Daily News reporter, Germany had two hundred agents at work in Mexico in May, 1940--more than in the days of Carranza and World War I. Burton declared that Arthur Dietrich, press attache of the German legation, directed Nazi espionage and propaganda in Mexico and all South America, a campaign supported by contributions totaling $13,000 (U.S.) a month made by the nine thousand Germans resident in Mexico.[77]

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[77] Hal Burton, "5th Column in Mexico Turns Its Face North," in The New York Daily News, May 23, 1940, p. 2.

Various American newspapers expressed fear of Mexico's becoming a German satellite. The Gloversville, New York, Herald recalled that Mexico had been a hotbed of German espionage in World War I and was in danger of becoming a breeding ground for Nazi tenets in the Western Hemisphere.[78] The Greensboro, North

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[78] McConnell, Mexico at the Bar of Public Opinion, 281, quoting the Gloversville, New York, Herald.

Carolina, News felt that Mexico was sacrificing beneficial relations with the United States to gain her own immediate and domestic ends, aiding the rampaging fascist cause in the process.[79] Hermann Rauschning himself heard Hitler declare that

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[79] Ibid., 268, quoting the Greensboro, North Carolina, News.

Mexico was the solution to Germany's economic problems, Mexico with its wealth and lazy population crying out for a master, like Germany.[80] The Houston Chronicle declared that Mexico was

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[80] Rauschning, The Voice of Destruction, 66-67. Rauschning also stated that one of Hitler's acquaintances was Sir Henry Deterding of the Dutch Shell Oil Company (El Aguila). Ibid., 65.

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the objective of two Old World ogres, fascism and communism, each attempting to bring the country under its sway and to set up a foothold in the Western Hemisphere from which to expand and with each willing to bring on civil war to gain its end.[81]

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[81] Ibid., 223, quoting the Houston Chronicle. The Denison, Texas, Herald felt the same way about the situation, while the Santa Rosa, California, Republican and the Council Bluffs, Iowa, Nonpareil thought Trotsky was guiding Cárdenas in the formation of a communist state. See ibid., 217, 220, quoting the respective newspapers.

According to Gill, the Gold Shirts and Sinarquistas were both involved in the Cedillo rebellion and the opposition to

the expropriation. When Cedillo finally proclaimed rebellion on May 20, 1938, he announced his disapproval of expropriation and his support of the oil companies.[82] Subsequently an aide

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[82] Carrillo, The Mexican People and the Oil Companies, 28. See also Charles A. Thomson, "Impasse Blocks Oil Settlement," in Foreign Policy Bulletin, XVII, 2.

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of Cedillo's confessed that a cousin of the consulting attorney for the Huasteca Oil Company was commissioned to arrange a loan from the oil companies for Cedillo, although in turn Cedillo was known to have given money and information to the Gold Shirts.[83]

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[83] Millan, Mexico Reborn, 251, and Weyl, Reconquest of Mexico, 300.

Previously Rodríguez, leader of the Gold Shirts, had offered his services to the oil companies through his agent in Tampico, by letter on March 23, 1938.[84] Rodríguez was reported to have

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[84] Gill, Sinarquismo, 48. The letter ordered the agent to contact the oil companies' managers and to tell them that the Sinarquistas wished to consult with them at an address in Mission, Texas, at which they should call, according to photostatic reproduction in ibid. The Gold Shirts were outlawed subsequently, but in 1940 were still active under a new title, Vanguardia Nacionalista, according to Burton, "5th Column in Mexico Turns Its Face North," in The New York Daily News, May 23, 1940, p. 22.

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visited Brownsville, Texas, on May 19, 1938, where he was sup-

posed to be contacting sources of financial aid for Los Dorados.[85] By June, 1938, Rodríguez's agent in Mexico City wrote

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[85] "Cárdenas Guarded in Cedillo's State," in The New York Times, May 19, 1938, p. 7. Von Merck also was reported to be in Texas at San Antonio contacting opponents of Cárdenas. See "Cárdenas Rushes Men to Rebel Areas," in The New York Times, May 26, 1938, p. 15. Note the dates.

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to a fellow agent in El Paso, Texas, that representatives of the oil companies and Los Dorados had agreed that the companies should finance the movement with an initial two million dollars to be expanded to ten million if success seemed likely. The money was to be sent from Canada to Cuba and thence to Mexico to avoid difficulties with the American Department of State. The companies were to furnish tankers for transporting necessary materials, and, assuming the rebellion was successful, Article 27 of the constitution was to be modified to permit continued exploitation of the subsoil by the companies and their properties were to be returned.[86]

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[86] Gill, Sinarquismo, 50, and Weyl, The Reconquest of Mexico, 300-301.

In the meanwhile the Cárdenas' government was coping with the military phase of the Cedillo revolt. Troops were rushed to San Luis Potosí, Mexican gunboats were sent to patrol the Gulf coast north of Vera Cruz, apparently to prevent smuggling

of war materials to Cedillo by sea, and Cárdenas himself went to San Luis Potosí.[87] There, interestingly enough, Cárdenas made a speech on world peace which was broadcast over the hemisphere; Cárdenas was presented by the Counselor of the United States embassy in Mexico.[88] Despite Cedillo's hold on his heavily-fortified ranchero, Las Palomas, and his seeming control over a large territory in San Luis Potosí,[89] the rebellion was shortly put down and the only physical resistance to expropriation collapsed before it could gather strength.

[87] "Cárdenas Rushes Men to Rebel Area," in The New York Times, May 26, 1938, p. 15.

[88] Strode, Timeless Mexico, 246.

[89] Frank L. Kluckhorn, "Mexican Irregulars Control Main Road to San Luis Potosí," in The New York Times, May 23, 1938, p. 1.

To the United States, as well as to Mexico, the greatest danger in 1938 seemed to be that Mexico might be converted into another Spain. The President of the United States expressed the American view of the possibilities inherent in the Mexican situation at a press conference, April 20, 1938:[90]

> Suppose certain foreign governments, European governments, were to do in Mexico what they did in Spain. Suppose they

> would organize a revolution, a Fascist revolution, in Mexico. Mexico is awfully close to us. Suppose they were to send planes and officers and guns and were to equip the revolutionists and get control of the whole of Mexico and thereupon run the Mexican Government, run the Mexican Army, and build it up with hundreds of planes. Do you think the United States could stand idly by ...? ... it is a long distance across the ocean. We would not be attacked from across the ocean, however, if they came from Mexico.... Spain is three days from Germany, and Mexico is only seven days from Germany.

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[90] The Public Papers and Addresses of Franklin D. Roosevelt with a Special Introduction and Explanatory Notes by President Roosevelt. 1938 Volume. The Continuing Struggle for Liberalism, 255-256.

That Mexico might become another Spain was rather widely regarded as a possibility.[91] The evidence that fascist maneuvers

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[91] Marchand, L'Effort Democratique du Mexique, 182; Carrillo, The Mexican People and the Oil Companies, 29; McMahon, Two Strikes and Out, 19; Waugh, Robbery under Law, 74.

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were going on in nearly every Latin-American country was strong, but Mexico presented the most likely area for immediate action in 1938. The expropriation, coupled with the world situation in 1938, was, according to Ramón Beteta, the first event since the shooting of Maximillian to make Europe conscious of Mexico.[92]

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[92] Kirk, Covering the Mexican Front, 197. See also Shepardson and Scroggs, The United States in World Affairs: 1938, p. 270.

The intervention of oil trusts and their European allies to control Mexico promised, Alejandro Carrillo felt, to be as effective as the Maximillian affair had been, if less spectacular.[93] René Marchand felt that Mexico, a socialist state, was

[93] Carrillo, The Mexican People and the Oil Companies, 30.

the chief obstacle to the expansion of fascism in the Americas and that the elimination of Cárdenas was important enough to both the oil trusts and the fascist element abroad and within Mexico that continued efforts at his destruction could be expected.[94]

[94] Marchand, L'Effort Democratique du Mexique, 182-186.

Cárdenas' term expired in November, 1940, and his candidate to succeed himself was Avila Camacho, opposed by General Juan Almazán, military commander of the Monterey zone, who was regarded as anti-Cárdenas. The Dies Committee in the United States announced in the spring of 1940, before the election for president in July, 1940, that a communist-fascist conspiracy existed in Mexico to assure the election of Camacho, the government-supported candidate. Hal Burton, on the other hand, reported that if the United States nodded after the July elections, Mexico would have a coup d'etat led by Almazán in either July or August, 1940. Almazán had declared that agents of

Hitler and Stalin were in Mexico working against all the other countries of the continent and that he would expel them if he were elected.[95] Both the C.T.M. and Mario Gill declared that

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[95] Hal Burton, "Mexico Seen Ripe for Rightest Revolt," in The New York Daily News, May 22, 1940, pp. 2, 11.

Almazán visited Dallas, Texas, after his defeat by Avila Camacho in July, 1940, to confer with representatives of the oil companies concerning support for a revolution in Mexico. The re-election of Franklin Roosevelt as president of the United States in November, 1940, and the sending of Vice-president-elect Henry Wallace to Mexico to attend Avila Camacho's inauguration were clear evidence that the Mexican government could continue to count on Roosevelt's support, according to Gill and the C.T.M. Almazán and the opponents of the government found their hopes for revolution in Mexico again crushed.[96] As late

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[96] Confederación de Trabajadores de México, C.T.M. 1936-1941, pp. 922 ff., and Gill, Sinarquismo, 62-63.

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as 1945, however, Ezequiel Padilla, Mexican minister of Foreign Affairs, declared that opposition within Mexico to the international policy of the government was financed by "disciples of Goebbels."[97]

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[97] Ezequiel Padilla, Nuestra Política Internacional: Serie Problemas Nacionales e Internacionales No. 22, p. 14.

Since the clash of ideologies also was involved in the struggle for domination in the world of the 1930's, the United States had already at Río de Janeiro in 1937 expanded the Monroe Doctrine to include defense of ideological integrity in the Americas.[98] With the failure of the military rebellion and po-

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[98] Gómez Robledo, The Bucareli Agreements, 190-191. Much to Gómez Robledo's chagrin, incidently. Mexico was the field of the old struggle between the United States and Europe, according to Esquivel Obregón, who felt that the United States was busy attempting to form a special geographical group cut off from Europe on the theory that mere continuity of land created similar interests. Obregón felt that that was not true between the United States and Mexico, despite geography, and that nothing common to America was not common to Europe also with many things linking Ibero-America to Europe which did not tie it to the United States. Obregón lamented the lack of "equilibrium" in America which in Europe prevented any one power from acquiring so much force as to threaten its neighbors. See Ezequiel Obregón, México y los Estados Unidos ante el Derecho Internacional, 22, 159-171.

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litical maneuvering in Mexico, the Mexican problem became one of survival, to outlast the other attack, which was primarily economic.

CHAPTER XIII

EXPROPRIATION: ECONOMIC REPERCUSSIONS

With the expropriation of the oil industry, the problem of production, sale, and distribution of oil fell upon the Mexican government. The large production of oil in Mexico, with its comparatively small domestic consumption, had ever since the beginning of output forced Mexican oil to find its chief market abroad.[1] The organization of the international oil business, dominated by two world-wide corporations, left Mexico in a difficult position when, a newcomer, she tried to break into the already-established pattern of international oil distribution. At the time of expropriation, Cárdenas declared that in the sale of the oil Mexico would remember the interests of other democratic nations and not sell merely to the highest bidder or ignore the consequences growing out of where the oil might be sold.[2] The C.T.M. also declared that the oil must be sold to countries defending democratic institutions and not to fascist states nor to interests related to the expropriated

[1] See above, Chapter VIII.

[2] Shepardson and Scroggs, The United States in World Affairs: 1938, p. 240.

companies.[3]

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[3] Confederación de Trabajadores de México, C.T.M. 1936-1941, p. 597.

To carry out the Mexican objective meant, therefore, to sell to countries like the United States, England, or France directly or through independents--a difficult task with the co-operation of everyone concerned and virtually impossible without it. International sympathy with Mexico was rare. The campaign of the oil companies against Mexico was widespread and effective. In France and on the continent in general the anti-Mexican drive was accompanied, according to René Marchand, by the most abominable calumnies imaginable.[4] The Mexican govern-

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[4] Marchand, L'Effort Democratique du Mexique, 168.

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ment characterized the campaign as one based on lies and contrary to all facts and figures, and an American commentator remarked that the drive against Mexico had probably never been equalled for distortion and vituperation.[5]

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[5] Seis Años de Gobierno al Servicio de México, 1938-1940, p. 201, and Millan, Mexico Reborn, 200.

Since the companies after expropriation desired to regain their properties, they had no recourse after the failure of

diplomacy to effect the restoration but to try to destroy the Mexican economy to make Cárdenas fall. So they declared economic war without quarter.[6] The consequence of the struggle

[6] Memoria de la Secretaría de Relaciones Exteriores, Septiembre de 1937-Agosto de 1938, I, 109. Cárdenas declared that the companies had carried on an adroit campaign abroad and within Mexico to injure seriously the Mexican economy and were succeeding. He also stated that he accused the companies of such action to one of the managers and the allegation had not been denied. See Cárdenas' message to the Mexican nation, March 18, 1938, in Curtis (ed.), Documents on International Affairs, 1938, I, 430.

was a profound change in the economic structure of Mexico, the sharpest change in Mexican history resulting from external forces.[7]

[7] Secretaría de Gobernación, Seis Años de Actividad Nacional, 295.

The withdrawal of deposits from Mexican banks by the companies had begun as early as August, 1937, and flight of capital dropped the metallic reserves of the Bank of Mexico from 194,000,000 pesos to 110,000,000 between August, 1937, and March, 1938.[8] The capital, reserves, and deposits of private

[8] Kluckhorn, The Mexican Challenge, 108; March, "Mexico and Oil," in Labour Monthly, a Magazine of International Labour, XXI, 175; and Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 127.

banks dropped 113,500,000 pesos from June, 1937, to April, 1938.[9] Extent of the flight of capital was indicated by the

[9] Informe Que Rinde al H. Congreso de la Unión el C. Presidente Lázaro Cárdenas, sobre Su Gestión de Septiembre de 1937 á Agosto de 1938, p. 6.

steady decline in the gold and silver and foreign assets reserves of Mexico from 62,000,000 pesos in March, 1937, to 26,000,000 pesos in December. Mexico stopped reporting the level of her reserves after December, 1937, until December, 1938, when they had reached 34,000,000 pesos.[10]

[10] League of Nations, Monthly Bulletin of Statistics, XVIII, 564-565. See also ibid., XIX, 611.

Payment of existing debts was also demanded by the oil companies.[11] The withdrawal of funds by the oil companies from

[11] March, "Mexico and Oil," in Labour Monthly, a Magazine of International Labour, XXI, 177.

the principal banks affected public confidence and other depositers withdrew their money in fear of a drop in the exchange rate.[12] Deposits in commercial banks declined dramatically

[12] Informe Que Rinde al H. Congreso de la Unión el C. Presidente Lázaro Cárdenas sobre Su Gestión de Septiembre de 1937 á Agosto de 1938, p. 6. Transfers of capital out of Mexico by

the oil companies were less than 5% of the general withdrawal, according to Standard Oil of New Jersey, Reply to Mexico, 45.

during the oil dispute.[13]

Deposits in Commercial Banks by Months

	1937 (pesos)	1938
January	318,000,000	218,000,000
February	325,000,000	277,000,000
March	336,000,000	247,000,000
April	341,000,000	247,000,000
May	363,000,000	247,000,000
June	363,000,000	261,000,000
July	351,000,000	274,000,000
August	350,000,000	274,000,000
September	347,000,000	275,000,000
October	338,000,000	279,000,000
November	337,000,000	283,000,000
December	321,000,000	293,000,000

[13] League of Nations, Monthly Bulletin of Statistics, XVIII, 571; XIX, 619.

After expropriation runs occurred on banks in Mexico with the public trying to exchange pesos for gold and silver; in some cases the bills were actually rejected.[14] The companies offer-

[14] "Para Orientar á los Desorientados," in El Universal, March 22, 1938, p. 3.

ed pesos on the world market at successively lower rates, and the peso dropped in relation to the dollar from its 1937 value of 3.60 to the dollar to 5.00 on March 20, settling finally at 4.25 by March 22 and rising by March 27 to 4.15.[15]

[15] "Cesó la Alarma: Habrá Dólares á 4.15," in El Universal, March 22, 1938, p. 1. See also Enríquez, Problemas Internacionales, 63, and Shepardson and Scroggs, The United States in World Affairs: 1938, p. 254.

After the United States suspended the silver purchase agreement on March 28, 1938, the Mexican government let the peso find its own level and for the year 1938 it averaged a value of 4.515 to the dollar.[16] Mexican currency in terms of

[16] Secretaría de la Economía Nacional, Anuario Estadístico 1938, p. 699. See also Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 127. The peso for 1937 was at 3.60 to the dollar, in 1938 at 4.515, and in 1939 at 5.181. See Secretaría de la Economía Nacional, Anuario Estadístico 1939, p. 699.

dollars fell downward month by month after March, 1938:[17]

Monthly Value Mexican Peso in U.S. Cents, 1938

January	32.9
February	32.9
March	30.3
April	27.4
May	26.4
June	24.8
July	23.8
August	23.4
September	23.1
October	23.3
November	23.7
December	23.6

[17] League of Nations, Monthly Bulletin of Statistics, XIX, 606.

The contraction in Mexican currency was sharp from 1937 to 1938:[18]

Notes in Circulation (000,000's)

	1937	1938
January	269	278
February	272	274
March	282	not reported
April	286	241
May	293	246
June	295	253
July	301	266
August	302	261
September	298	257
October	292	264
November	288	272
December	287	296

[18] Ibid., XVIII, 567-568. See also ibid., XIX, 614.

Between August, 1937, and April, 1938, currency in circulation dropped 61,000,000 pesos. Not until February, 1939, did money in circulation reach the August, 1937, level again.[19]

[19] Ibid., XXI, 149.

The economic warfare against Mexico was waged on the international scene as well as within the country. The parent companies in the United States of the expropriated companies switched their purchases of oil elsewhere and United States imports of Mexican crude dropped from 3,500,000 barrels in 1937 to 2,500,000 barrels in 1938.[20] Furthermore, Mexican

[20] United States Tariff Commission, Trade Agreement between Mexico and the United States, xix.

crude imported into the United States paid a half cent (U.S.) duty per barrel while Venezuela and Colombia paid only quarter cent (U.S.) imposts per barrel.[21] Discouraging would-be purchasers of Mexican oil was a United States Senate resolution in 1940 that the National Stolen Property Act be amended to prohibit the sale in interstate or foreign commerce of any property acquired by violating the law or by confiscation by a foreign government; this action was amended by the House of Representatives to give the President of the United States authority to prohibit at his descretion the importation of stolen property.[22]

[21] Secretaría de Gobernación, Seis Años de Actividad Nacional, 402. See also Person, Mexican Oil, 65.

[22] Feuerlein y Hannan, Dólares en la América Latina, 20.

Not only did Mexico abruptly lose its foreign market for oil after expropriation but continuous operation of the industry was made impossible as a result of the international boycott by the oil companies which shut off or hindered the procurement by Mexico of equipment, materials, and technicians.[23]

[23] Secretaría de Gobernación, Seis Años de Actividad Nacional, 315, 402.

Since the oil industry was the third largest source of revenue for the Mexican government, the international blockade was doubly serious, with both Britain and the Netherlands boycotting Mexican oil and influencing friendly countries not to buy it.[24] With no market, Mexican production immediately after

[24] Shepardson and Scroggs, The United States in World Affairs: 1938, pp. 255-256

expropriation dropped from 600,000 metric tons a month to 78,000.[25]

[25] Ibid.

Reaching the markets that were open was a serious problem, for tankers were largely controlled by Dutch Shell and Standard Oil which refused to permit Mexican oil to be moved in their ships. Dutch Shell ordered a complete boycott of Mexican oil and threatened, according to report, to boycott any concern trading in Mexican oil.[26] A real effort, apparently, was made

[26] Kirk, Covering the Mexican Front, 171; Weyl, Reconquest of Mexico, 304; and Person, Mexican Oil, 65.

to follow the advice of the Boston Transcript:[27]

> Of course, we will not go to war; but we may have to use the one other weapon which will force an adjustment. Large-scale economic reprisals, brutally employed, remain a possibility. They would soon prove effective.

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[27] As quoted in McConnell, Mexico at the Bar of Public Opinion, 309.

Immediately after expropriation, therefore, Mexico's expressed desire to sell oil only to the democracies was made impossible by the boycott of the oil trusts which controlled the import markets in the democratic countries.[28]

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[28] Confederación de Trabajadores de México, C.T.M. 1936-1941, pp. 597, 1031. See also H. P. Smolka, "The Mexican Conflict," in The Times (London), March 30, 1938, p. 16.

Secondary boycotts also were levied against Mexico. Tetraethyl lead, a monopoly of Standard Oil, was denied Mexico, and Dutch Shell was accused in United States courts by Eastern States Petroleum, dealing in Mexican oil, of threatening or commanding other companies to prevent their purchasing oil from the plaintiff.[29] Supply companies in the United States which

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[29] Weyl, Reconquest of Mexico, 305. See also H. Lauterpacht (ed.), Annual Digest and Reports of Public International Law Cases, Being a Selection from the Decisions of International, National Courts and Tribunals Given During the Years 1938-1940, pp. 90-93. Hereafter cited as Lauterpacht (ed.), Annual Digest, 1938-1940.

furnished replacement parts to the Mexican industry refused Mexican orders and Mexico met almost insuperable difficulties in buying machinery and equipment while tank cars and tankers virtually were unobtainable.[30] Even a Mexican order for twen-

[30] Paid advertisement of Petroleos Mexicanos, "Something to Our Credit...." in La Prensa, December 31, 1941, p. 21.

ty-eight trucks from an American manufacturer was canceled, and Mexican oil, it appeared, was rejected by agencies of the United States government even when it underbid competition.[31]

[31] Person, Mexican Oil, 65, and Strode, Timeless Mexico, 341. Standard Oil of New Jersey declared in Reply to Mexico, 6, that if American manufacturers would not sell to Mexico it was because they distrusted Mexican credit, not because of threats from Standard. On the other hand, Secretario de Hacienda Suárez declared to Betty Kirk that one company returned checks for equipment ordered by Mexico with a declaration that it did not dare to get on Standard's black list. See Kirk, Covering the Mexican Front, 170.

The customary Mexican importation before expropriation of about a thousand tons of paraffin a month ended afterwards because of the boycott; Mexico was unable to buy any.[32]

[32] Silva Herzog, Petróleo Mexicano, 195.

Certainly Mexican imports of machinery and equipment used in heavy industry showed a surprising drop in 1938:[33]

Imports Machinery, etc., in Pesos

	Machinery and apparatus for agriculture, mining, and industry	Machinery and apparatus and instruments for other uses and vehicles
1936	99,335,014	96,845,341
1937	124,972,887	120,425,834
1938	99,463,818	71,103,048
1939	107,592,308	124,482,568

[33] Secretaría de la Economía Nacional, Anuario Estadístico 1938, pp. 558-559. Mexican credit apparently had remarkable recuperative powers by 1939. (See footnote 31.)

The drop in these two import items from 1937 to 1938 (74,831,855 pesos) was three-fourths of the total drop felt in Mexican imports from the United States between 1937 and 1938:[34]

Mexican Commerce with the United States (pesos)

	Imports	Exports
1936	274,457,269	271,100,740
1937	381,479,268	501,762,858
1938	284,933,491	504,846,430
1939	415,834,280	678,829,342

[34] Secretaría de la Economía Nacional, Compendio Estadístico 1947, p. 453.

Even the American tourist trade declined, with the number of tourists entering Mexico from the United States sinking to 119,616, in 1938 from 144,955 in 1937.[35] Mexico undoubtedly

[35] Secretaría de la Economía Nacional, Anuario Estadístico 1939, p. 208.

suffered a severe intensification of her economic crisis after expropriation,[36] but the effect was not perhaps as sharp as ex-

[36] Frank L. Kluckhorn, "Unions in Mexico in Attack on Jews," in The New York Times, June 25, 1938, p. 5, declared the textile business had dropped 45% and bankruptcies and business failures were increasing. See also Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 131.

pected since post-expropriation sales of oil, although smaller, did not have to support interest payments to investors; hence the decline in wealth actually left in Mexico from oil sales abroad was not proportionally as great as the decline in total sales.[37]

[37] "Para Orientar a Los Desorientados," in El Universal, March 22, 1938, p. 3.

The harassing tactics of the oil companies were well illustrated by the use of the courts in foreign countries to interfere with the disposal of Mexican oil.[38] At the time of

[38] According to the anonymous author of a phamphlet issued in London on the decision of the Civil Court of Le Havre concerning sale of Mexican oil abroad, the companies' attitude was curious. They protested at not being paid but acted as if they never desired to collect, resorting even to legal means

to prevent the making of inventories to determine indemnity. This source believed that the companies felt that shutting Mexico out of the world market for oil for two years would force Mexico to hand back the properties on bended knees; to accomplish that, Mexican oil was pursued over the continent and hailed into the courts as stolen property to purchase which made the buyer an accomplice in crime. See introduction to Civil Court of Le Havre, Hearing of July 22nd, 1939. M. Davies, Petro-Service et al vs. Mexican Eagle. Judgment.

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expropriation a tanker belonging to El Aguila was in the port of Mobile, Alabama, and the Mexican Consul at New Orleans attempted to take possession of the tanker in accord with the expropriation decree. The Eagle Oil and Shipping Company, a Canadian firm, then asked for and received an injunction from the Alabama Chancery Court on April 2, 1938, which put the tanker in temporary receivership and forbade the Mexican Consul to take possession. The ship remained in harbor while the Court of Mobile returned, May 26, 1938, a judgment in favor of Mexico, sustaining the Mexican right to seize the ship. Eagle Oil and Shipping appealed the verdict on May 28, 1938, to the United States Fifth District Court of Appeals in Montgomery, Alabama.[39]

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[39] Memoria de la Secretaría de Relaciones Exteriores, Septiembre de 1938-Agosto de 1939, Presentada al H. Congreso de la Unión por el General e Ingeniero Eduardo Hay, Secretario del Ramo, I, 135-139. Hereafter cited as Memoria de la Secretaría de Relaciones Exteriores 1938-1939.

On November 18, 1938, the Court of Appeals ruled as follows:[40]

> The only point which exists here to be decided is whether the Republic of Mexico could enjoy immunity in that which affects this boat, which is a Mexican boat, belonging to

> a Mexican company, registered in Mexico, and flying the Mexican flag, in a case like the present in which Mexico has taken possession peacefully of said boat in our waters by means of legitimate agents and representatives.... We believe that the question is answered in the affirmative.

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[40] Ibid., I, 148.

After eight months delay the injunction was lifted and the tanker freed for use by Mexico.

In the suit brought before the United States Southern District Court of New York by Eastern States Petroleum Company against the Asiatic Petroleum Corporation to enjoin the defendant from interferring with Eastern States' foreign oil business, El Aguila entered the case as a third party with the defendant. El Aguila alleged that Eastern States between August and December, 1938, took 1,700,000 barrels of crude oil, belonging to El Aguila, from Mexico. El Aguila alleged that the decree expropriating the properties belonging to the company in Mexico was unconstitutional and asked judgment against Eastern States of $1,700,000 (U.S.) with interest. Eastern States moved the dismissal of the suit, alleging its contract was with a government corporation in Mexico set up to exploit the oil fields nationalized by act of the President and Congress of Mexico. The United States district court dismissed the suit on April 3, 1939, ruling that acts of a foreign sovereign in expropriating property within its territory were not reviewable in United States courts. The court ruled that foreign

sovereigns must be presumed to be acting legally and to permit one country to examine the legality of the acts of another in the courts would imperil relations between governments. Redress of grievance, the court declared, had to be secured through means available between the sovereign powers themselves. Finally, the court stated that El Aguila was a Mexican corporation and could not seek a review of the validity of Mexican law in American courts but properly had to resort to the Mexican judiciary.[41]

[41] Lauterpacht (ed.), Annual Digest 1938-1940, 90-93.

In Europe suit was brought before the Civil Tribunal of Antwerp on November 18, 1938, attacking the legality of a third parties' distributing oil expropriated from foreign-owned corporations by the Mexican government. The Antwerp court ruled February 21, 1939, that the actions of the Mexican government could not be questioned in a Belgian court on grounds that Mexico's act violated Belgian public order.[42] El Aguila brought

[42] Ibid., 25. See also Memoria de la Secretaría de Relaciones Exteriores 1938-1939, I, 93-94.

suit also against Davis and Company in Dutch courts attacking the Davis Company's right to sell oil in the Netherlands secured by Mexico through confiscation since confiscation was

contrary to the Dutch concept of public order. The Rotterdam court ruled that it could not question the good faith of a foreign government in performance of acts of public nature and dismissed the suit.[43] A judgment of the tribunal of Midelburg, Holland, on August 2, 1938, ruled that the sale of Mexican oil could not be prevented in Holland on the basis that it was confiscated property since both the Mexican expropriation law and Cardenas' decree provided for compensation. Hence the Midelburg court ruled that ultimate compensation could not be considered fictitious, rejected the oil companies' contention that Dutch public order was involved in Mexico's sovereign actions, and dismissed the suit.[44]

[43] Lauterpacht (ed.), Annual Digest 1938-1940, 25-26. See also Memoria de la Secretaría de Relaciones Exteriores 1938-1939, I, 156-158.

[44] Memoria de la Secretaría de Relaciones Exteriores 1938-1939, I, 83. See also Botella Asensi, La Expropiación, 59.

The legal technique of attacking Mexico economically reached its climax in the maneuvers in France.[45] The case involved Mexican gasoline bought by various French companies

[45] Memoria de la Secretaría de Relaciones Exteriores 1938-1939, I, 109.

and imported into France. El Aguila sought and obtained an injunction on October 6, 1938, blocking the delivery of the oil by jobbers to the French purchasers on the grounds that the oil legally was not Mexican property. The lower French court ruled that French purchasers of Mexican oil could not be considered as owners in good faith under French law since the act of the Mexican government in expropriating the oil industry was contrary to public order under French law.[46] This startling

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[46] Memorandum of the Mexican Minister in Paris to the French Minister of Foreign Affairs, printed in ibid., I, 96. See also Botella Asensi, La Expropiación, 63-64.

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opinion was appealed by the French purchasers of the Mexican oil and the agent delivering the oil, Davis' company, to the court at Rouen. The Mexican government requested permission to enter the case and present its views of the law since the lower French court had acted to condemn Mexican constitutional law.[47]

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[47] Memoria de la Secretaría de Relaciones Exteriores 1938-1939, I, 97.

From the court at Rouen the case was appealed to the Civil Tribunal of Le Havre which rendered its decision July 23, 1939:[48]

> By force of time and national difficulty, France has legislated to distinguish factors concerning the protection of private property against confiscation and has never abandoned the principle of just indemnity but has ruled that

such indemnity must not always be paid in the first place. The court cannot consider the promise of compensation as illusory considering the repeated promises of Mexico to pay; the large correspondence carried on concerning payment; the Mexican request for the oil companies to assist in a valuation; and the setting aside of a certain portion of sales abroad for indemnity.

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[48] Civil Court of Havre: Hearing of July 23rd, 1939, M. Davis, Petro-Service, et al., vs. Mexican Eagle. Judgment, 13-14.

The court therefore denied El Aguila's petition, condemned it for illegally sequestering the oil of another firm, and ordered it to pay damages and court costs[49] --but ten months had elapsed

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[49] Ibid., 14. See also Memoria de la Secretaría de Relaciones Exteriores, 1938-1939, I, 114-119.

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with the oil in storage and undelivered.

Immediately after expropriation Cárdenas had sent a high Mexican official directly to France to try to negotiate an agreement on oil with the French government,[50] probably because

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[50] Silva Herzog, Petróleo Mexicano, 200.

France was the one major democratic power not in control of an oil supply. The Mexican official, according to Silva Herzog, declared that French civil servants gave the impression they were blocked from buying Mexican oil because of arrangements

already existing with foreign oil companies and because of opposition by the British government, France's ally.[51] Before

[51] Ibid., 201. Betty Kirk declared that a private agreement between Mexico and a French banker, M. Descombes, for a large oil sale was blocked by British pressure when the problem of financing the deal arose. See Kirk, Covering the Mexican Front, 167. Boraces, El Petróleo Mexicano ... ¿Es "Cosa Robada"? 531, declared all sorts of pressures were brought on French merchants to dissuade them from buying Mexican oil.

abandoning his efforts, the Mexican wrote the French Minister of National Defense in October, 1938, declaring that Mexico felt that the advantage to French national defense of an oil supply free of the dangers of Mediterranean transit in case of war should offset any private interests opposed to the arrangement. The official declared Mexico found it difficult to believe that the arrangement between France and Britain was superior to the national defense needs of France which could best be met with Mexican oil. The Mexican official concluded his note with a warning to France that Mexico would have to permit other countries to build up war reserves with Mexican oil if France rejected the offer, reminding the French government that, although Mexico wanted to sell to France, other governments had approached Mexico with offers to buy Mexican oil.[52] The French

[52] Silva Herzog, Petróleo Mexicano, 202.

government did not reply to the note.

As the oil industry did not collapse and production continued, the absolute necessity for a foreign market to take the surplus Mexican production became more urgent. Shut out of the American, British, and French markets in 1938, Mexico turned to the only available customers, even though they were anathema to her politically, Germany, Italy, and Japan.[53] Although numerous

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[53] Shepardson and Scroggs, The United States in World Affairs: 1938, pp. 256-257. See also Confederación de Trabajadores de México, C.T.M. 1936-1941, p. 1031.

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adventurers appeared in Mexico after expropriation, offering to market oil, most of them were without capital or were like one New Yorker who rented a tanker, the Miriam, and sent it to Tampico to load with oil, offering to pay twenty-five cents a barrel when the market price was ninety cents.[54] Not until the

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[54] Silva Herzog, Petróleo Mexicano, 198-199.

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summer of 1938 did tankers begin to handle Mexican oil, despite threats from Standard Oil, but then only at very high rates.[55]

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[55] Ibid., 199.

The first break in the boycott of Mexican oil came when W. R. Davis appeared in Mexico City. Davis, owner of a refinery in Hamburg and a student of Nazi barter-finance, had lost

his Mexican subsidiary, Sabalo, in the expropriation, but after negotiations he and Mexico agreed July 6, 1938, on a ten million dollar sale of oil by Mexico to Eastern States Petroleum Company which was to deliver the oil to Sweden, Germany, and Italy.[56]

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[56] Weyl, Reconquest of Mexico, 307, and Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 131. See also "Sweden to Accept Oil in Exchange for Newsprint Shipments," in Mexican Courier, June 1, 1938.

Payment for the oil was to be 40% in cash and 60% in kind, with the bulk of the oil going to Germany.[57] The prices agreed on

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[57] Shepardson and Scroggs, The United States in World Affairs: 1938, p. 256.

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between Mexico, Davis, and Germany were approximately half (0.46 U.S. per barrel at Pánuco and 0.54 U.S. at Poza Rica) those obtained prior to expropriation--prices Mexico used also to break the Standard Oil monopoly in Guatemala.[58]

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[58] M. H. Guerna, "Producción y Exportación del Petróleo después de la Expropiación," in El Economista, II, 28. See also Millan, Mexico Reborn, 214, and "Réplica al Tercer Boletín del Secretario de Hacienda y Crédito Público," in El Economista, I, 16.

A barter deal negotiated directly between Mexico and Germany for seventeen million dollars, changing Mexican crude for German machinery and equipment, was announced December 8, 1938,

and between January 1 and 16, 1939, seven ships left Tampico for Germany with 722,687 barrels of oil.[59] A small Texas com-

[59] Weyl, Reconquest of Mexico, 307; Silva Herzog, Petróleo Mexicano, 203; and Kluckhorn, The Mexican Challenge, 26.

pany also purchased Mexican oil to barter it to Germany for manufactured goods.[60] Despite the barter nature of the agree-

[60] Shepardson and Scroggs, The United States in World Affairs: 1938, p. 256.

ment with Germany, a portion of the deal was for cash in dollars. About 50% of the sales to Germany in July-August, 1939, (around five hundred thousand dollars in August) were in cash although at a low price made necessary to break the Standard-Dutch Shell boycott.[61] Germany took 2,441,498 barrels of Mexi-

[61] Silva Herzog, Petróleo Mexicano, 204-206. El Aguila's officials in Mexico declared that Germany would not dare to make deals against Standard and Dutch Shell since they were the chief source of oil for Germany, according to Kirk, Covering the Mexican Front, 166.

can oil in 1937, her purchases in 1938 holding at 2,097,044 barrels despite the blockade, and dropping to 1,498,383 barrels in 1939.[62] German imports of gasoline from Mexico rose from

[62] Silva Herzog, Petróleo Mexicano, 211.

11,900,000 metric tons in 1937 to 40,400,000 metric tons in 1938.[63]

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[63]League of Nations Economic Intelligence Service, International Trade in Certain Raw Materials and Foodstuffs by Countries of Origin and Consumption 1938, p. 160.

The drop in Mexican-American trade after expropriation contrasted with the rise of German-Mexican trade sharply enough by the end of 1938 to have become painfully evident to the United States. While the United States share of trade with Mexico declined from 62.2% in 1937 to 57.7% in 1938, Germany's proportion rose from 16% to 19%.[64] As a matter of fact, Mexico had

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[64]Shepardson and Scroggs, The United States in World Affairs: 1938, p. 257.

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been trying to broaden her trade with Germany since late in 1937 when Mexico announced that Germany had risen to second only to the United States in exports to Mexico and third in imports.[65] After expropriation, while American firms restricted

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[65]Kluckhorn, The Mexican Challenge, 72.

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credit to Mexican business, German companies expanded it.[66]

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[66]Prewett, Reportage on Mexico, 293. One commentator noted

that despite all the publicity concerning the German agreements with Mexico, Germany received only slightly more oil from Mexico in 1938 than in 1937, an observation which missed the point: that despite the boycott Germany actually maintained her trade in oil with Mexico. See Howard J. Trueblood, "U.S. Urges Mexican Oil Settlement," in Foreign Policy Bulletin, XVIII, 2.

American office equipment companies complained to the United States in 1938 that they were being cut out of the Mexican government's business and the United States Consul in Tampico reported that government offices had been ordered to obtain only German supplies.[67] Germany valued the Mexican connection

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[67] Kluckhorn, The Mexican Challenge, 71.

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highly enough that Joachim Herstlet, second ranking man in the German Foreign Economic Ministry, and Hjalmer Schacht's brother were sent to visit Mexico.[68] By February, 1939, when Junkers

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[68] Kirk, Covering the Mexican Front, 169.

Aircraft had a representative in Mexico arranging a barter deal, the United States requested Mexico's foreign office to reject it.[69] The United States undoubtedly observed that Mexi-

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[69] Ibid., 168.

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co had rushed her Minister back to Germany in January, 1939,

when the United States Envoy had been recalled in protest at the Jewish atrocities of 1938 and that Mexico (and Guatemala) were the only two Latin-American countries exchanging New Year's greetings with Hitler.[70]

[70] Kluckhorn, The Mexican Challenge, 80. Germany seemingly considered her Mexican tie vital, for according to Prewett, Reportage on Mexico, 294, she made a desperate effort to keep her trade with Mexico even after war began in September, 1939, by shipping through Italy and Sweden, running the blockade, and even as late as the fall of 1940 sending goods across Siberia to Japan to Mexico.

Not only Germany, but also Italy and Japan, offered to supply Mexico with technicians, a market, and machinery in return for barter agreements in oil.[71] An Italian commission concluded an agreement with Mexico in October, 1938, under the terms of which oil worth five million dollars was to be bartered with the Azienda Generale Italiana Petrole.[72] At the end of 1938 negotiations were begun with Italy for the construction of three tankers for Mexico to be paid for with Mexican oil.[73]

[71] H. P. Smolka, "The Mexican Conflict," in The Times (London), March 30, 1938, p. 16.

[72] Kirk, Covering the Mexican Front, 167.

[73]Silva Herzog, Petroleo Mexicano, 203. Two of these were completed and delivered before Italy became involved in World War II. On a difficulty encountered in regard to delivery of one tanker, see Memoria de la Secretaría de Relaciones Exteriores, Septiembre de 1942-Agosto de 1943, Presentada al H. Congreso de la Unión por el Licenciado Esquiel Padilla, Secretario del Ramo, I, 453.

Between September, 1938, and January, 1939, Italian tankers left Houston, Texas, with 680,740 barrels of oil.[74] Another

[74]Kluckhorn, The Mexican Challenge, 76.

contract between Italy and Mexico gave Italy in April, 1939, a virtual monopoly of imported rayon in Mexico in exchange for $2,500,000 (U.S.) in oil.[75] Sales of oil to Italy rose from

[75]Kirk, Covering the Mexican Front, 169.

187,240 barrels in 1937 to 259,107 barrels in 1938, and rocketed to 3,315,107 barrels in 1939. In half of 1940 (until Italy entered World War II) Italian purchases amounted to 3,212,820 barrels.[76]

[76]Silva Herzog, Petróleo Mexicano, 210.

When Mexico was attacked for supplying a fascist country with oil (Italy took about 25% of Mexican exports of oil in

1939), Eastern States Petroleum Company declared that the three chief sources of oil for Italy were Standard Oil, Dutch Shell, and Mexico, which supplied about 10% of Italy's imports.[77]

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[77] Weyl, Reconquest of Mexico, 306. According to Kirk, Covering the Mexican Front, 169, the Italian Minister to Mexico confessed that Italy did not intend to push her agreements with Mexico since the oil companies had cooperated so well with Italy during the Ethopian crisis.

When Italy entered World War II in June, 1940, the oil market lost cost Mexico about four hundred thousand dollars monthly.[78]

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[78] Silva Herzog, Petróleo Mexicano, 209.

Japan was reported as early as March 24, 1938, as being hopeful of taking advantage of the Mexican situation to secure some of the oil formerly exported to Britain and America. Mexican newspapers published reports from Japanese papers praising Mexico for escaping the Anglo-American influence.[79] In fact,

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[79] "Japanese Interest in Mexican Oil," in The Times (London), March 24, 1938, p. 13.

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the first large-scale sale of oil after expropriation reportedly was 120-140,000 barrels of crude taken by Japan.[80] On April

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[80] J. H. Carmical, "Strong Stand by Hull Expected in Clash on Mexican Oil Wells," in The New York Times, March 30, 1938, p. 2.

1, 1938, a Japanese tanker, the Itso Kutsami Maru, left Tuxpam's old El Aguila oil terminal with 84,500 barrels of oil.[81]

[81] Kluckhorn, The Mexican Challenge, 75.

Relations between Japan and Mexico were close enough for two Japanese officials of the Imperial Fisheries to be made honorary commissioners of the Mexican Department of Fisheries and Hunting with Mexican fisheries officials' sons being sent to Japan for schooling. Moreover, Japanese fisheries officials visited Mexico to study the possibilities of creating a deep channel from Mexico to the Gulf of Mexico sixty-five miles south of Brownsville, Texas.[82] In March, 1938, the Japanese Minister

[82] Ibid., 89.

to Mexico denied a rumor that Japan was seeking permission to build a pipe line across the Isthmus of Tehunatepec, but a Japanese company, Compañía Veracruzana, was granted a concession on 250,000 acres of land in Vera Cruz and asked permission to drill on a Japanese-made survey on the Isthmus of Tehuantepec.[83] Large quantities of Mexican oil were shipped in bond

[83] Ibid., 91, and Kirk, Covering the Mexican Front, 169.

from Mexico to Texas and transhipped to Japan while Norweigan

tankers carried great amounts of crude directly to Japan.[84]

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[84] Anita Bradley, Trans-Pacific Relations of Latin America, 78-79.

By 1940 Japan's opinion of Mexico was that it was the most important of Latin-American countries because of its production of raw materials.[85] Apparently seizing the opportunity present-

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[85] Kirk, Covering the Mexican Front, 293. Kirk also declared that Japan tried to sabotage the Mexican-American agreement of 1941 giving the United States exclusive purchase rights to all strategic materials. Kirk said that the Chinese claimed Japan planned to use her fisheries fleet in a plot against the United States. At any rate, a mercury scandal was uncovered when it was revealed that the United States received only one thousand flasks of Mexican mercury when from four to five thousand had been produced, the rest having been smuggled to Japan in oil drums from Manzanillo. See ibid., 293-294. Even a branch of the Mexican government felt that, war being inevitable between the United States and Japan, the United States regarded Mexican oil and minerals as a reserve supply available on the Pacific coast. See Secretaría de Educación, Sobre el Petróleo de México: Conferencias, 36.

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ed by the boycott of Mexico, Japan expanded her commerce with Mexico tremendously between 1938-1941:[86]

	Imports from Japan (pesos)	Exports to Japan
1938	8,770,669	3,590,976
1939	7,268,499	9,393,887
1940	17,512,204	24,043,248
1941	25,372,217	21,247,224

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[86] Secretaría de la Economía Nacional, Compendio Estadístico 1947, p. 449.

By 1939 it was evident that the economic blockade of Mexico was not destroying the Mexican government and was threatening the United States position in Mexican trade. The American economic blockade, as far as private commerce could enforce it, was not strong enough to make commercially-applied sanctions effective and was raising the specter of Latin-American commerce being lost to countries outside the Western Hemisphere.[87] Mexi-

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[87] Feuerlein y Hannan, Dólares en la América Latina, 121.

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co had moved to reduce the level of American imports in January, 1938, by raising the general tariff schedule from 100-200% on the average, and in July, 1939, a 12% maximum export tax was levied, bearing heavily on mineral exports, the major Mexican products sold abroad and products largely turned out by American owned companies.[88] Total American commerce with Mexico

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[88] United States Tariff Commission, Trade Agreement between the United States and Mexico, xxiii. See also Kluckhorn, The Mexican Challenge, 29, 66. From January to August, 1939, Mexico's exports were 19.7% silver; 19.4% gold; 12% lead; 8.2% zinc; 5.8% copper; and only 4.8% petroleum. See "Mexico and Her Relation to American Defense," in Journal of Commerce and Commercial, CLXXXV, 30.

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dropped sharply from $245,100,000 (U.S.) in 1937 to $187,971,000 (U.S.) in 1938, and in the eighteen months immediately following expropriation American exports dropped 40%. Oil exports to the United States plummeted from 3,500,000 barrels in 1937 to

2,500,000 in 1938, a loss recovered in part by the development by Mexico of the new trading areas of Italy, Germany, and Japan.[89]

[89] United States Tariff Commission, Trade Agreement between the United States and Mexico, xxvii, xlix. See also Standard Oil of New Jersey, Investments and Trade, 11.

The Mexican recovery was shown by the quantity of exports from her two principal Gulf ports, Vera Cruz and Tampico. Trade at Vera Cruz, 1936-1940, was as follows:[90]

	Imports (tons)	Exports
1936	206,146	169,407
1937	239,503	173,990
1938	183,049	132,383
1939	218,717	186,776
1940	217,114	123,952

[90] Secretaría de la Economía Nacional, Anuario Estadístico 1941, p. 827.

At Tampico, trade, primarily exportations of oil, continued after the expropriation:[91]

	Imports (tons)	Exports
1936	95,452	2,783,650
1937	107,286	3,248,400
1938	150,517	1,722,625
1939	57,982	1,697,810
1940	109,725	1,373,512

[91] Ibid.

Total Mexican foreign commerce survived the economic war even more successfully than the oil trade:[92]

	Imports		Exports	
	Volume (tons)	Value (pesos)	Volume	Value
1936	905,316	464,142,705	5,145,065	775,313,330
1937	1,246,991	613,755,448	5,345,590	892,388,563
1938	897,969	494,118,125	3,547,179	838,127,953
1939	849,160	629,708,225	4,156,923	914,389,882

[92] Secretaría de la Economía Nacional, Anuario Estadístico 1939, p. 557.

Although Mexican commerce abroad was hit hard by the economic repercussions of expropriation, it continued at a level adequate to permit Mexico to withstand the hardship:[93]

Index Numbers of Exports (1929-1933 100)

	Volume		Value	
	General	Oil	General	Oil
1936	132.15	114.71	107.48	109.78
1937	140.86	123.63	112.36	95.32
1938	130.54	72.92	97.96	71.33
1939	119.57	77.08	101.27	81.40

[93] Ibid., 601.

Oil exports, although not stopped, changed their nature rather drastically and dropped in value. The value of exportations of crude and derivitives of petroleum fell in the following manner:[94]

1936	153,480,426 pesos
1937	152,177,873
1938	79,378,642
1939	82,605,560

[94] Banco Nacional de Comercio Exterior, El Comercio Exterior de México (1938-1939), p. 2.

The sharp drop in value of exported petroleum was due not so much to the decline in quantity as to the smaller quantity of refined products exported:[95]

	Percent Petroleum Exports in Crude	Percent Petroleum Exports Refined
1936	27.84	72.16
1937	29.86	70.14
1938	32.84	67.16
1939	64.52	35.48

[95] Ibid., 596.

The fall in refined petroleum products was shown by the decrease in exportations of gasoline:[96]

	Volume (bbls.)	Value (pesos)
1936	4,278,966	46,624,606
1937	4,392,477	49,024,538
1938	1,539,392	17,129,439
1939	1,046,480	7,206,807

[96] Secretaría de la Economía Nacional, Anuario Estadístico 1939, p. 582.

With the loss of the newly-developed markets for oil in

Europe when World War II began in September, 1939, Mexico decided to try to re-enter the American market. Silva Herzog, general manager of Distribuidora de Petróleos Mexicanos, went to Washington, D.C., and asked the Department of State what the official attitude of the United States government was. The reply was that no obstacles would be placed in the way of Mexican sales of oil in the United States.[97] Subsequently

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[97] Silva Herzog, Petróleo Mexicano, 207.

Mexico made a contract with an American firm for the sale of 1,500,000 barrels of crude and arrangements for the sale of large quantities of gas oil over a five-year period.[98] In 1940

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[98] Ibid.

American imports of Mexican crude climbed to 12,300,000 barrels.[99]

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[99] United States Tariff Commission, Trade Agreement between the United States and Mexico, xlix.

American exports of oil-well machinery to Mexico revived:[100]

	1940 (dollars)	1941
Petroleum and gas well-drilling apparatus and parts	308,050	128,784

Other petroleum well and refining machinery and parts	456,107	711,384
Other well-drilling apparatus and parts	33,481	65,965
Centrifugal pumps	148,093	198,766
Rotary pumps	24,178	1,098
Deep-well turbine pumps	193,940	2,596
Reciprocating steam pumps	11,817	16,930
Other reciprocating power pumps	66,237	35,933

[100] United States Department of Commerce, Foreign Commerce and Navigation of the United States for the Calendar Year 1940, p. 530-531, and ibid., 1941, p. 437.

American imports of Mexican crude and petroleum products also increased:[101]

	1940 (bbls.)	1941
Imports crude petroleum	12,260,666	9,642,023
Kerosene	203,865	188,171
Gas oil	2,294,239	2,261,905
Residual fuel oil	826,454	1,109,205

[101] United States Department of Commerce, Foreign Commerce and Navigation of the United States for the Calendar Year 1940, pp. 135-136, and ibid. 1941, p. 135.

General Mexican-American commerce bettered the 1937 level in 1940 when it reached $173,000,000 (U.S.); in 1940 the United

States imported $55,700,000 (U.S.) in gold and silver alone from Mexico.[102] Mexican trade with the United States between 1938-1941 was as follows:[103]

	Imports (U.S. dollars)	Exports
1938	63,027,000	124,944,000
1939	80,256,000	131,012,000
1940	97,653,000	159,042,000
1941	154,246,000	133,023,000

Mexican exports of petroleum products to the United States in dollars, 1937-1941, were as follows:[104]

	All Petroleum Products	(Gasoline)
1937	38,440,000	13,605,000
1938	---------	---------
1939	15,279,000	1,806,000
1940	15,835,000	578,000
1941	13,534,000	1,210,000

[102] United States Tariff Commission, Trade Agreement between the United States and Mexico, 1.

[103] Ibid., xxvii.

[104] Ibid., xxx. The astonishing decline in gasoline exports to the United States is given separately to indicate the drop in refining activity in Mexico. The drop in the quantity of oil treated in Mexican refineries was due to age of the refining equipment and to old methods of using it, according to Silva Herzog, Petróleo Mexicano, 286. Thus, the percent of oil exported in crude form rose from 27.8% in 1936 to 68% in the first half of 1940. Ibid., 287.

The economic war, as far as the Mexican and American governments were concerned, was over by the end of 1939 and in the shadow of the international situation, the United States negotiated the Douglas-Weickers Agreement in July, 1941, by which the United States agreed to purchase all of Mexico's production of strategic war minerals at the market price. Mexico in turn was to receive vital raw materials and machinery from the United States on condition that none be re-shipped to non-American countries.[105] A reciprocal trade agreement was finally

[105] Kirk, Covering the Mexican Front, 207-208.

signed between Mexico and the United States on December 23, 1942, and not only normal but friendly commercial ties officially were in full effect. Mexico had survived, if she had not won, the economic war precipitated by expropriation, an act which finally was approaching, on the international scene, the status of a closed issue.

CHAPTER XIV

THE NATIONALIZED OIL INDUSTRY: 1938-1942.

Following expropriation, the organization of the oil industry within Mexico became exclusively a national problem. The Mexican government had entered the oil business as early as 1923 when the Control de Administración del Petróleo Nacional was established. The organization was in competition with the private companies indirectly, being set up to drill wells in the federal zones.[1] The Control de Administración was replaced by a more elaborate organization, Petróleos de México, S.A., in 1933. Petróleos de México (Petromex) built a refinery at Tampico and constructed its own distributing outlets.[2] A further reorganization of the government oil company was made in January, 1937, when the Administración General del Petróleo Nacional was established to explore the national reserves and to produce and refine oil for the government.[3]

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[1] Huasteca Petroleum Company and Standard Oil Company of California, Expropriation: A Factual Study of the Causes, Methods, and Effects of Political Domination of Industry in Mexico, 6.

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[2] Ibid.

[3] Ibid. See also Oil Industry in Mexico: "Commentaries" Series No. 2, pp. 3, 6, and Richberg, The Mexican Oil Seizure, 25.

With the nationalization of the major part of the industry on March 18, 1938, a drastic reorganization of the governmental relationship to the operation of the oil business was necessary. Cardenas ordered the establishment of the Junta Administrativa del Petróleo on March 19, 1938. The Junta was to consist of nine men named by the President, three to be selected from the Oil Workers' Union, three from the Secretaría de Hacienda, and one from the former Administración del Petróleo Nacional. The Junta was to manage the properties of the expropriated companies and to carry out all operations related to exploration, exploitation, refining, and sale of products related to the expropriated companies.[4] The Junta was headed by Secretario de Hacienda

[4] "Petróleo: Sección Oficial," in Boletín de Petróleo y Minas, III, 1-2.

Eduardo Suárez, and Secretario de la Economía Nacional Efrain Buenrostro seconded Suárez.[5] The industry itself was operated

[5] Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 128.

by the workers through trade-union committees until the national

petroleum apparatus was functioning. Trade union locals were ordered to maintain production at all costs and former company officials were permitted to remain at their posts if they joined the union.[6]

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[6] Weyl, Reconquest of Mexico, 298. The entrance of the Mexican government into the oil business directly and on a monopoly basis did not go unchallenged. Joaquín Santaella pointed out that exploration of the subsoil directly by the government was unconstitutional since the constitution provided for the granting of concessions for utilization of the subsoil and forbade monopolies. The government could scarcely grant concessions to itself. See Joaquín Santaella, "El Régimen de la Propiedad Minera," in El Economista, I, 26. That contention was answered by Cárdenas himself who declared that the expropriation did not signify exclusive enjoyment of the subsoil by the state nor was the constitutional provision concerning concessions obligatory; rather, it provided the state with a faculty to be used or not used according to the best interests of the nation in the national patrimony. See Seis Años de Gobierno al Servicio de México, 1934-1940, p. 429.

Immediately after expropriation Mexican oil production dropped sharply. In April, 1938, production was down 53.4% from March, as pressure was reduced in the wells to alleviate the problem of storage which immediately became serious as daily exports fell from 199,886 barrels in March, 1938, to 15,216 barrels in April.[7] The income from oil exports declined from

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[7] "Petróleo," in Revista de Estadística, I, 15. Ten to fifteen million barrels of oil jammed storage facilities at the time of expropriation, according to Kluckhorn, The Mexican Challenge, 133. Exports for April, May, June, 1938, were cut in half, compared with 1937. See Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 131.

$2,500,000 (U.S.) in February, 1938, to only three hundred thousand dollars (U.S.) in April, 1938, leaving the industry to be supported by the domestic market, only 43% of the expropriated companies' business.[8] The number of wells in production

[8] Standard Oil of New Jersey, Reply to Mexico, quoting petition of Petróleos Mexicanos to Labor Board in July, 1940.

was cut down from 981 to 756 immediately after expropriation.[9]

[9] "Petróleo," in Revista de Estadística, I, 15.

The drop in production, both of crude and refined products, was due solely to sales reasons, for the Mexican workers proved perfectly capable of operating the industry under difficult conditions and won praise even from their opponents for the way the problems of production were handled.[10] If it had been

[10] Kluckhorn, The Mexican Challenge, 129, and Prewett, Reportage on Mexico, 137.

thought that the industry would collapse after a couple of months of Mexican operation, the thought was completely erroneous.

Production was complecated, however, by shortages of technical personnel, of materials for refineries, of indispensable equipment for exploiting deposits of oil. Particularly causing

difficulty in operating the industry was the condition of existing equipment which was found to be old and in such bad condition that further operation of it was a real danger.[11] Despite company claims of large investments in the industry, the government found the equipment after expropriation to be antique, in need of repairs, and of deficient quality.[12] Apparently a policy of retrenchment and of economy had been followed for many years and the machinery of the industry was in a bad state of decay.[13] After expropriation, company technicians were withdrawn, oil maps and technical data were lacking, warehouses contained no replacements, installations were near collapse, and in some cases pumps had been smashed, tubes dynamited, and wells flooded, according to Pemex.[14] The best of the refining

[11] Secretaría de Gobernación, Seis Años de Actividad Nacional, 315.

[12] Seis Años de Gobierno al Servicio de México, 1934-1940, p. 206.

[13] El Aguila, in its financial report for 1937, listed as investments in the rich Poza Rica concession only 57,170.00 pesos, while the field produced 7,346,757 barrels of oil. See García Granadas, Los Veneros del Diablo, 206.

[14] "Something to Our Credit...," advertisement of Petroleos Mexicanos in La Prensa, December 31, 1941, p. 21. See also Millan, Mexico Reborn, 209; García Granados, Los Veneros del Diablo, 15; Seis Años de Gobierno al Servicio de México, 1934-1940, p. 206.

installations was El Aguila's plant at Ciudad Madero but even there the machinery and buildings were in bad condition.[15]

[15] García Granados, Los Veneros del Diablo, 14.

Mexican refineries at the time of expropriation were in some cases paralyzed, some operating at half capacity, and the continued operation of any seemed precarious.[16] Despite the

[16] "Something to Our Credit...," advertisement of Petroleos Mexicanos in La Prensa, December 31, 1941, p. 21.

situation, the employees of the industry were not thrown into unemployment since domestic consumption took 40% of production, enough to keep the plants open.[17] For exporting oil Mexico

[17] Silva Herzog, Petróleo Mexicano, 142. See also Shepardson and Scroggs, The United States in World Affairs: 1938, p. 255.

had only one ocean-going vessel and nine units for river and coast-wise shipping in March, 1938, the total equalling 17,400

tons,[18] so that the domestic market was the only immediate area Mexican oil could reach.

Between March and June, 1938, discontent existed among some workers, with the discontinuation of double pay for certain types of work, the laying off of some men, and curtailment of some social benefits.[19] Representatives of the companies reported soon after expropriation that workers received only 60% of their former salaries and that some were convinced the properties would have to be returned and even were, in one or two instances, agitating for such a return and opposing the C.T.M. leadership.[20] Union discipline (and patriotism) held the workers to their jobs until June, 1938, even though the terms of the Labor Board award were not enforced.[21]

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[18] "Something to Our Credit...," advertisement of Petróleos Mexicanos in La Prensa, December 31, 1941, p. 21.

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[19] Huasteca Petroleum Company and Standard Oil Company of California, Expropriation: A Factual Study of the Causes, Methods, and Effects of Political Domination of Industry in Mexico, 27.

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[20] J. H. Carmical, "Strong Stand by Hull Expected in Clash on Mexican Oil Wells," in The New York Times, March 30, 1938, p. 2. See also "People of Mexico Held Misled on Oil," in The New York Times, March 31, 1938, p. 4.

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[21] Charles A. Thomson, "Impasse Blocks Oil Settlement," in Foreign Policy Bulletin, XVII, 2.

By June, 1938, Mexican production settled at about 65% of the pre-March, 1938, level,[22] and on June 7, 1938, the operation of the petroleum industry was reorganized by executive order. The new administration was Petróleos Mexicanos (Pemex), a juridical personality to carry out the duties previously assigned to the Junta Administrativa del Petróleo. The new corporation was directed by a council made up like that of the preceding organization and its liquid returns were to be put at the disposal of the Secretaría de Hacienda. At the same time the President ordered the creation of a government corporation, Distribuidora de Petróleos Mexicanos, to sell oil products belonging to the nation; the executive body of the corporation was a directing council of five members, three named by the President of Mexico and two appointed by the Secretario de Hacienda, one to be from the Junta Administrativa del Petróleo and the other from the Administración General de Petróleo Nacional.[23]

[22] Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 128.

[23] "Petróleo: Sección Oficial," in Boletín de Petróleo y Minas, IX, 22-23.

The national oil administration was manned by trade unionists and the majority of the executive committee of the Oil Workers' Union took places in the new organization.[24] Although

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[24] Confederación de Trabajadores Mexicanos, C.T.M. 1936-1941, p. 1030. J. Silva Herzog became general manager of Distribuidora de Petróleos Mexicanos, Cortes Herrera general manager of Petróleos Mexicanos.

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all workers benefitted from the expropriation financially by receiving a five hundred thousand pesos increase in the summer of 1938 (still 8-15% below the Labor Board award) and by retaining their same contract rights with the government corporation as with the private companies, no forty-hour week was established nor were the welfare provisions of the award enforced. A housing project was begun for workers at Poza Rica, however.[25]

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[25] Weyl, Reconquest of Mexico, 304; Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 128; Kluckhorn, The Mexican Challenge, 132; and March, "Mexico and Oil," in Labour Monthly, a Magazine of International Labour, XXI, 176.

For the rest, the new national petroleum administration offered the workers the full award given by the Labor Board, to be put into effect little by little, with both the government agency and the workers retaining the old employer-employee relationship.[26] The portion of the award dealing with confidential,

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[26] Silva Herzog, Petróleo Mexicano, 215.

non-union positions was not enforced and in the whole industry scarcely ten employees were left as non-union.[27] The terms of the award in respect to wages were not made fully effective but discounted by agreement with the workers 8-15% below the award on the basis of the discounts being temporary. The provision in regard to life insurance policies never was put into effect, but medical services and housing allowances were paid eventually even above the terms of the award.[28]

The administrative employees benefitted most from the expropriation, according to Silva Herzog, the salaries paid to them by Pemex being the highest in Mexico.[29] Silva Herzog also declared that since unification of the industry did not leave enough managerial positions, superintendencies were invented in accord with the needs of the union leaders, not of the industry.[30]

[27] Ibid., 237.

[28] Ibid., 228, 262.

[29] Ibid., 230.

[30] Silva Herzog, Petróleo Mexicano, 238.

Complaints against the administration of Pemex were made in the summer of 1938 by several former oil workers in a letter which accused the leaders of the expropriation of gaining for themselves fabulous salaries (names, former wages, and increased salaries being given).[31] Seven sections of the Oil Workers' Union notified the general manager of Pemex that while their salaries were being cut (in terms of the 1937 award), their leaders were gaining far more than before and wasting money on automobiles and refrigerators.[32] Even so, Pemex maintained for the rest of 1938 the level of employment and granted most of the social stipulations of the Labor Board award. It painted service stations throughout Mexico, repaired pipe lines, built new houses for workers, purchased four hundred tank cars, bought one tanker, paid full taxes, and lowered prices to the consumers' benefit, doing those things on 40% of former production.[33]

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[31] "Disillusion in the Rank and File," in The Atlantic Presents: Trouble below the Border, I, 34, quoting letter in El Hombre Libre (Mexico City), July 4, 1938.

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[32] Kluckhorn, The Mexican Challenge, 222.

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[33] March, "Mexico and Oil," in Labour Monthly, a Magazine of International Labour, XXI, 177.

Even the octane rating of Mexican gasoline was raised to a new high--despite the unavailability of tetraethyl lead--by the blending of natural high octane gasoline with the low octane fuel.[34]

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[34] I. M. Quintana, Mexican Oil--A Statement of Facts, 10.

The recovery, or rather survival, of the Mexican oil industry through the summer of 1938 and its return to the international market which began in the fall of 1938,[35] made possi-

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[35] See above, Chapter XIII.

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ble a new exploitation of the industry's wealth, for the benefit primarily of labor. A surprising enlargement of the labor force began in the industry although production still was far below the pre-expropriation level. Production in 1937 had averaged about 125,000 - 130,000 barrels daily, of which a daily average of 63,000 barrels had been exported. Out of that production, 96% in 1937 had been partially or completely refined in Mexico (7,457,337 cubic meters produced, 7,091,001 refined). Total production of crude oil in 1937 had been 46,805,000 barrels valued at 179,906,822 pesos, from 1039 active wells. Output of light crude (chiefly from Poza Rica) rose 11.9% in 1937 over 1936. Volume of refinery products in 1938 was 167.05 of the 1929 average, the value of the production being 169.00 of

the 1929 index. Internal sales in 1937 equalled 155,688,785 pesos. Forty-five wells were drilled in 1937, of which twenty-nine were producers. Oil fields numbered forty-one, with Poza Rica, Pánuco, Faja de Oro, and El Istmo being the major fields. In the industry 20,864 people were employed, drawing wages of 55,000,000 pesos.[36]

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[36] Secretaría de la Economía Nacional, Anuario Estadístico 1941, p. 676; Secretaría de la Economia Nacional, Compendio Estadístico 1947, p. 312; Gobierno de México, El Petróleo de México, 119; "Mexican Petroleum," in Mexico News, I, 19; Manterola, La Industria del Petróleo en México, 135; Noriega, Influencia de los Hidrocarburos en la Industrialización de México, 203-204; Cuellar, Expropiación y Crisis en México, 512; and "National Economy of Mexico," in Commercial Pan America, a Monthly Review of Commerce and Finance, XV, 26.

The oil industry during 1938 in Mexico was, of course, in crisis. In the first three months of the year production of crude was at a rate of 54,700,000 barrels per year. Employment, April, 1938, was 14,368 persons, with 1527 working as temporary employees, for a total working force of 15,895. Total expenditures for wages, social benefits, etc., were at a rate of 4,273,271.54 pesos per month. Production costs were 1.32 pesos per barrel.[37] After expropriation production costs rose to

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[37] Seis Años de Gobierno al Servicio de México, 1934-1940, p. 207; Standard Oil of New Jersey, Reply to Mexico, 95; Guerña, "Producción y Exportación del Petróleo despues de la Expropiación," in El Economista, II, 31.

1.60 pesos per barrel as production of crude dropped to 150,000 barrels per day (average for the year) and exports of oil products dropped 41% to 33,000 barrels daily (average for year). Total production of crude for 1938 fell to 38,467,000 barrels, 18% below 1937. Producer wells declined to 606 in number, a fall of 41%. New drillings dropped to thirty-one holes of which only fifteen were producers and two oil fields shut down, to leave thirty-nine in operation. Value of crude produced fell to 154,157,219 pesos while income from internal sales was 154,663,510 pesos, off slightly from 1937. Refinery production declined 47.75 points below the 1937 index (1920 = 100) while oil exports were valued at 79,000,000 pesos. But payments to workers rose to 57,107,559 pesos while the total number of workers increased by July, 1938, to 14,825 persons, plus 2,990 temporary employees, for a total of 17,815, an increase of 1,920 over April, 1938. Wage benefits were at a rate of 5,016,701.41 pesos per month by July, 1938.[38] The Mexican

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[38] Secretaría de la Economía Nacional, Anuario Estadístico 1941, p. 676; Secretaría de la Economía Nacional, Compendio Estadístico 1947, p. 312; Seis Años de Gobierno al Servicio de México, 1934-1940, p. 207; "Mexican Petroleum," in Mexico News, I, 19; Noriega, Influencia de los Hidrocarburos en la Industrialización de México, 203-204; Cuellar, Expropiación y Crisis en México, 512; "National Economy of Mexico," in Commercial Pan America, XV, 26; Standard Oil of New Jersey, Reply to Mexico, 94; Confederación de Trabajadores de México, C.T.M. 1936-1941, p. 1069; Quintana, Mexican Oil--A Statement of Facts, 4; Trueblood, "U.S. Urges Mexican Oil Settlement," in Foreign Policy Bulletin, XVIII, 2.

government might well have declared at that point that the development of the industry was a means, not an end, and that too rapid development would create merely a temporary prosperity and destroy resources.[39]

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[39] Oil Industry in Mexico: "Commentaries" Series No. 2, p. 6.

The industry operated successfully enough in 1938, despite the increased wage benefits, to enter 1939 with no great burden of deficit, even though in January, 1939, production was 32% lower than in January, 1938, and active wells were only 697.[40]

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[40] Trueblood, "U.S. Urges Mexican Oil Settlement," in Foreign Policy Bulletin, XVIII, 2.

The revival of the export market and expanded domestic consumption supported the industry. In 1939 Mexican production of crude rose to 42,890,000 barrels, a daily production of 117,000 barrels, and average daily exports increased to 49,000 barrels, 77% of the 1937 level. The industry operated in 1939 at 96.01% of the 1929 level, only 8% below 1937. Number of producing wells during the same year increased to 849 and operating refineries to thirteen while the value of crude production rose to 182,419,426 pesos and internal sales of oil products reached 169,954,304 pesos. Exports produced about 76,000,000 pesos.[41]

[41] Secretaría de la Economía Nacional, Anuario Estadístico 1941, p. 676; "Mexican Petroleum," in Mexico News, I, 19; Noriega, Influencia de los Hidrocarburos en la Industrialización de México, 203-204; League of Nations, Monthly Bulletin of Statistics, XXII, 365; Secretaría de la Economía Nacional, Anuario Estadístico 1939, pp. 448-449; United States Tariff Commission, Mining and Manufacturing Industries in Mexico, 51; "Mexico and Her Relation to American Defense," in Journal of Commerce and Commercial, CLXXXV, 38; Silva Herzog, Petróleo Mexicano, 209; "Something to Our Credit...," advertisement of Petróleos Mexicanos in La Prensa, December 31, 1941, p. 21.

Unfortunately the industry did not operate at an increased rate of production in every area in 1939. Refining output continued to drop from the 1937 level, declining 51.54 points in 1939 below the index for production in 1937. Refined crude was 63.2% of total crude production in 1939 in contrast to 79.5% in 1937. New drillings declined to twenty-four of which fifteen wells were producers, and the necessity for increased exploration to replace exhausted wells was evident. From 1938 to 1940 only nine million pesos were invested in exploration for new wells.[42]

[42] Secretaría de Gobernación, Seis Años de Actividad Nacional, 402; Secretaría de la Economía Nacional, Anuario Estadístico 1941, p. 676; Secretaría de la Economía Nacional, Compendio Estadístico 1947, p. 312; "Mexican Petroleum," in Commercial Pan America, XV, 6, 42; "National Economy of Mexico," in Commercial Pan America, XV, 26; Workers University of Mexico, The Oil Conflict in Mexico, 18.

Employment in the oil industry was booming, however. In March-April, 1939, employment in Petróleos Mexicanos, according

to General Manager Cortes Herrera, reached 19,316, of which 15,005 were permanent and 4,311 were temporary workers. Payment of salaries and benefits to the group required 6,500,000 pesos per month, two million pesos above expenditures for the purpose in 1938. Cost of production per barrel had risen by April, 1939, in the refinery at Minatitlán to nearly three pesos. By October, 1939, permanent workers numbered 16,141 and temporary ones 6,932, a total of 23,073 or 45.16% above the March, 1938, level, according to Silva Herzog, general manager of Distribuidora de Petróleos Mexicanos. At the end of 1939 employment was 22,206. Payments to the employees were 93,692,626 pesos, far above the 75,000,000 pesos recommended by the Labor Board in 1937--but there were far more employees. Payments to employees by October, 1939, were at a monthly rate of 8,118,703.76 pesos, an increase of 89% over April, 1938.[43]

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[43] Silva Herzog, Petróleo Mexicano, 241-242; Secretaría de la Economía Nacional, Anuario Estadístico 1941, p. 676; Standard Oil of New Jersey, Reply to Mexico, 61-62.

The beginning of the European war in September, 1939, put an abrupt end to the ability of the Mexican oil industry to support so expanded a worker force. Sales abroad in July, 1939, were more than two million dollars; in September they dropped to eight hundred thousand dollars. In August, 1939, Pemex began to operate at a loss and by the end of 1939 its deficit was

22,000,000 pesos. The financial crisis facing Pemex was presented to Cárdenas in January, 1940, with recommendations being made by the managers for a reduction in expenses by reorganizing the industry.[44] So began a new dispute in the oil industry be-

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[44] Secretaría de Gobernación, Seis Años de Actividad Nacional, 402; Silva Herzog, Petróleo Mexicano, 244; Confederación de Trabajadores de México, C.T.M. 1936-1941, pp. 1032-1033; advertisement of executive committee of the Sindicato de Trabajadores Petroleros de la República Mexicana, in El Excelsior, August 9, 1940, p. 10; "Mexico and Her Relation to American Defense," in Journal of Commerce and Commercial, CLXXXV, 38; Hal Burton, "Mexico Finds Oil Grab Was Gigantic Flop," in New York Daily News, May 24, 1940, pp. 2, 10.

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tween the management of the nationalized oil business, the workers, and the Mexican government, which occupied most of 1940.

The report calling Cárdenas' attention to the crisis in Pemex was sent by Cortes Herrera, general manager of Pemex, to the President in January, 1940. In addition to pointing out the economic difficulties of Pemex, Cortes Herrera complained of managerial difficulties. Lack of discipline among workers resulted in zone and field offices refusing to send to the central management payroll sheets to justify increased expenditures. Workers at Minatitlán refinery interferred in the operation of the plant according to the director's plan and work was suspended with resulting damage to the plant, according to Cortes Herrera. Workers in Tampico refused to allow materials in warehouses to be shipped to other refineries, where they were needed, and the superintendent of the Tajen field arbitrari-

ly increased his own salary and made the raise retroactive by taking money from funds intrusted to him; he granted the cashier at the field the same largesse, according to report. Medicines applied for in large quantities by the workers at the oil industry dispensaries were in some cases sold or bartered for other goods. There were instances of pipe lines being tapped by workers and the stolen oil and gasoline being sold privately. Worker irresponsibility, Cortes Herrera complained, was typified by the use of a sea pipe line, known to be broken, at Tuxpam in March, 1939, with the loss of sixteen thousand barrels of oil pumped into the Gulf.[45]

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[45] Standard Oil of New Jersey, Reply to Mexico, 96-98, and Burton, "Mexico Finds Oil Grab Was Gigantic Flop," in New York Daily News, May 24, 1940, pp. 2, 10.

It was obvious after the beginning of World War II and the renewed stricture on exports that such extravagances could no longer be supported by the industry. Particularly noticeable was the rise in the number of workers which could hardly be justified, even though Rafael Suárez, secretary-general of the Oil Workers' Union, pointed out that part of the increase was due to replacement of non-union confidential workers with union men and part due to the fact that the industry had been under-manned deliberately by the oil companies in their last months in Mexico.[46] Cárdenas, at the end of February and early

[46] Burton, "Mexico Finds Oil Grab Was Gigantic Flop," in New York Daily News, May 24, 1940, pp. 2, 10.

in March, 1940, called a meeting of representatives of Pemex, Distribuidora de Pemex, and the Oil Workers' Union, reading them a memorandum which suggested a reorganization of the industry to reduce its budget to its gross income, to cut administrative salaries, to abolish unnecessary positions, to eliminate overtime not absolutely essential, to stop payment of housing subsidies to workers earning over ten pesos a day, to abolish seniority as the basis for promotion, to cease the filling of vacancies not vital to production, and to permit the free movement of personnel at the will of the management.[47]

[47] Roscoe B. Gaither, Expropriation in Mexico: The Facts and the Law, 176-177. See also Silva Herzog, Petróleo Mexicano, 245, and Confederación de Trabajadores de México, C.T.M. 1936-1941, p. 1030.

Cárdenas further recommended that transitory workers be reduced to 10% of the regular workers and the number of regular workers to the level of March 18, 1938, as a maximum. Field superintendents, it was suggested, should be named from outside the local unions. Cárdenas also reminded the Oil Workers' Union that all but a few posts in Pemex were in its hands, yet the union continued to act as if it were struggling with the private oil companies. The President declared the profits of the industry

must go to the nation and be distributed through the budget to benefit the whole country. The government, Cárdenas announced, felt that the good name of Mexico required that the expropriated companies be paid and, to accomplish that, 20% of production had still to be set aside. New drillings and increased production were essential for the continuation of the industry, and for those purposes increased use of Pemex's income was required, along with greater production.[48]

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[48] Silva Herzog, Petróleo Mexicano, 246-253. See also Avila Camacho, Informes al H. Congreso de la Unión, 64.

The Oil Workers' Union, probably stunned by the severity of the government's proposals, did not reply to the memorandum of the President until April, 1940. Its response was to point out that the increase in the number of workers was not as great as appeared since the companies had held employment to a below-minimum level and had many non-union employees. The interest of workers in their legitimately acquired posts would be lessened by the failure to fill non-essential jobs and lowering the hierarchy of officials, according to the union; if such were done, the union felt that thorough investigation should be made in each case. If administrative salaries were reduced, the union said, labor's salaries should be increased to arrive at the levels established by the 1937 award, for the industry was commercial and should pay according to its ability. The number

of temporary workers should be set by the needs of the industry, not arbitrarily, the union answer declared, and added that to reduce rent would be to renounce the 1937 award and to deny workers their just rights. If a new contract were to be negotiated, then the union felt the 1937 award should be the minimum aspiration of the workers. Such a new contract could determine the power of the managers to fill or not to fill vacancies when they occurred and the free movement of personnel. Seniority, the union felt, usually coincided with ability and ordinarily, therefore, seniority should guide promotion. However, the union agreed that in cases of demonstrated incapacity, a senior worker could be by-passed. The method of choosing field superintendents, the union stated, had been settled by the order of the Labor Board in 1937.[49]

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[49] Silva Herzog, Petróleo Mexicano, 255-259.

Accompanying the union's reply was its plan for reorganization of the industry. The recommendation was that the oil industry administration be centralized in one agency, that official or cabinet procedure be eliminated from the administration, that the union be granted a majority of the executive board, that intervention in the industry by elements foreign to it be stopped, that the union participate directly in the reorganization of the industry, and that the discounts in the workers' wages be ended after the reorganization.[50]

[50] Ibid., 260-261.

Pemex presented its plan for the industry, modeled on the plans of the government, at the beginning of May, 1940. Cárdenas met with the representatives of the union on May 25, 1940, and read a message in which he declared that since the purpose of the reorganization of the industry was to make possible economies, it could not do so by raising the salaries of the workers by ending the discounts which kept wages below the level of the award of 1937.[51] Cárdenas agreed that Pemex should be put under single management but stated that the proposal could not be effected until exports became normal and legal arrangements could be made. Putting a majority of union representatives upon the administration of Pemex, Cárdenas declared, would imply renunciation by the government of its responsibility to the country and the turning over to the union of an industry belonging to the nation. Cárdenas proposed again that the union agree to suppress positions shown by experience not to be necessary, to move seniority down to cashier employees with least experience, to accept a small cut in the wages of administrative

[51] Oil workers' salaries were still 8-25% below the level of the sums specified in the 1937 award, according to Hal Burton, "Capital Flees Iron Squeeze of Mexican Labor," in New York Daily News, May 26, 1940, p. 2.

workers and laborers who earned over seven hundred pesos monthly, to consent to a suppression of overtime except in unusual cases, to permit the reduction of temporary employees until a reasonable number corresponding with the development of the industry was reached, to concur in giving general managers authority to shift workers to any part of the country where they might be needed, and to end the creation of new positions without consent of the administrative council. In closing Cárdenas reminded the union representatives that the government was obligated to pay promptly and adequately for the expropriated properties, in which task the people, and especially the oil workers, must cooperate. Furthermore, Pemex was already in debt to the government for taxes and loans.[52]

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[52] Silva Herzog, Petróleo Mexicano, 261-266.

The following day, May 26, 1940, the general managers of Pemex and the representatives of the oil workers on the administrative council began a series of conferences to work out details of the administration of Pemex, but no agreement was accomplished. In the meanwhile, Pemex's financial straits became more serious. By June 1, 1940, Pemex's income for the year was 143,453,086.56 pesos while its expenses were 211,357,630.91 pesos, leaving a deficit of 67,904,544.35 pesos for five months.[53]

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[53] Ibid., 265-268.

Production in the first four months of 1940 averaged only 110,000 barrels per day, and refineries were operating far below capacity. At the Mata Redonda refinery in Tampico, 60% of the workers were involved in maintenance instead of production. According to one newspaper correspondent, Poza Rica field was a hotbed of intrigue, suspicion, and even sabotage. Refined crude dropped in the first half of 1940 to only 61.6% of total production and gasoline production (refined) to 8,965,553 barrels, several hundred thousand barrels below production for the same period in 1939.[54]

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[54] Burton, "Mexico Finds Oil Grab Was Gigantic Flop," in New York Daily News, May 24, 1940, p. 2. See also Silva Herzog, Petróleo Mexicano, 190.

As Pemex's financial crisis worsened and the purpose of the union seemed to be to delay, Cárdenas issued a directive to the managers on July 15, 1940, which stated that the government had invested a hundred million pesos in the industry up to July, 1940, to repair, maintain, and develop it. The benefits and wages paid to workers were above the 75,000,000 pesos per year awarded in 1937. The economic condition of the industry, nevertheless, was declared to be serious and in need of immediate betterment. Unless the industry remedied its situation immediately, Cárdenas ordered the management of Pemex to pay the savings funds due the workers in December, 1940, not in cash but in bonds. Payment of housing allowances was to be suspended for all workers earning ten to twenty pesos a day but

was to be left unchanged for workers earning less than ten pesos per day. Overtime was ordered to be reduced to a minimum at once, unnecessary positions were to be eliminated, and wage scales reduced. Administrative salaries were to be cut 10% if they were over seven hundred pesos a month. Cárdenas ordered vacations cut to six days per year, temporary workmen reduced to a minimum, new vacancies not to be filled unless the work were vital, and wages and expenses paid to union commissions to cease except with prior permission of the administrative council and for certain executive committees.[55]

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[55] Standard Oil of New Jersey, Reply to Mexico, 105-107, and Silva Herzog, Petróleo Mexicano, 268-270.

When Cárdenas' message was read to the administrative council, the workers' representatives left the room but the remaining members (six of nine) constituted a quorum and ordered the execution of the President's decree. The general managers (Cortes Herrera of Pemex and Silva Herzog of Distribuidora de Pemex) decided that the only way to carry out the presidential plan was by placing a dispute of economic order before the Labor Board. In their petition to the Labor Board, the General Managers of Pemex declared that expenses had risen for Pemex, that wages had been paid at the cost of suspending payment of federal taxes, not replacing materials needed for operations, stopping needed repairs and new work, ending royalty payments,

and not filling contract obligations. Bankruptcy faced the industry, according to Pemex, if the labor contract was not temporarily revised by ending the housing payments made to workers earning over twenty pesos per day, by cutting the rental allowance paid workers earning between ten to twenty pesos daily, by reducing the pay of workers receiving over seven hundred pesos per month by 10%, and by slashing vacations to six days per year. The General Managers requested permanent reductions in certain administrative salaries; authority not to fill vacancies if the managers felt it unnecessary; power to move administrative personnel freely and union personnel within its zone; right to cease payment of salaries and expenses of union representatives except to members of executive committees, workers on the Board of Directors of Pemex, and members on contract missions; privilege to suppress unnecessary positions, to move seniority lists downward, and to dismiss workers at the bottom; and authority to fire 25% of the permanent working staff.[56] The experts to study

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[56] Standard Oil of New Jersey, Reply to Mexico, 109-113, quoting petition of Pemex to Labor Board.

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the case were not appointed until the end of September; their report was made, privately, on October 31, 1940.[57]

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[57] Silva Herzog, Petróleo Mexicano, 271-272; 285.

In the interim negotiations continued between the oil union leaders and Pemex, with a good deal of unrest manifested among laborers. During August, 1940, a compressor was ruined at the Ciudad Madero refinery, supposedly through carelessness of a worker. Numerous railway accidents occurred at the end of July and August, 1940, with oil trains being involved in each case. A dangerous fire damaged the tetraethyl lead plant at Atzcapotzalco on August 20, 1940, caused by water being in the gasoline-kerosene drums used to treat lead with sodium in the manufacturing process. (Sodium and water are violently explosive on contact.)[58] According to Silva Herzog, who resigned his position in Pemex on August 6, 1940, some of the labor unrest was attributable to machinations of agents of the former companies. A report to the Subsecretary of State in July, 1940, declared that a leader of the oil union conferred in Cuernavaca with confidential agents of Standard Oil of New Jersey, Standard Oil of California, and El Aguila. According to Silva Herzog, it was agreed that the union leader should receive weekly sums of money in return for fomenting opposition among workers to reorganization of the industry, reduction of salaries, etc. Large sums were offered to union leaders if a total strike in the industry were made effective. Company agents were reported at work again among the workers of the oil

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[58] Ibid., 280-283.

fields. Reported actions of sabotage in the Mexican oil industry were investigated, according to Betty Kirk, by the British government's intelligence service, since by 1940 Mexican oil was involved in World War II.[59]

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[59] Silva Herzog, Petróleo Mexicano, 277-279, and Kirk, Covering the Mexican Front, 175-176.

The C.T.M. intervened in the dispute after the action of Pemex in placing the matter before the Labor Board as a question of economic capacity. A new agreement was reached between the oil union and Pemex in early August, 1940. Under the terms of the agreement a mixed commission of two representatives of Pemex and two of the oil union, presided over by the Department of Labor, was set up to find a plan to prevent non-payment of the savings fund. Another committee was set up to study the problem of the payment for housing, to try to find a means to continue it. Both Pemex and the union agreed on a reduction of overtime pay; designation of a committee of ten union men to make reorganization plans; and on cuts in wages for men earning less than seven hundred pesos a month at the rate proposed by the government while earnings above seven hundred pesos a month were to be cut 10%. Both union and Pemex agreed that during August, 1940, no vacations would be granted and future regulation of vacations was to be settled by the committee studying savings funds. The union and Pemex agreed that for ninety days new

vacancies should be evaluated before being filled and not be filled if they were found non-essential. After ninety days, all vacancies occurring should be filled. Both parties agreed to an immediate reduction of transitory workers to a minimum.[60]

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[60] Confederación de Trabajadores de México, C.T.M. 1936-1941, p. 1033.

The general manager of Distribuidora de Petróleos Mexicanos, J. Silva Herzog, resigned August 6, 1940, in part because of the exposure in the United States of the low prices at which Pemex had been selling oil to foreign buyers,[61] and

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[61] Silva Herzog, Petróleo Mexicano, 281.

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on August 8, 1940, Cárdenas revoked the decrees establishing Distribuidora de Petróleos Mexicanos and the Administracion General del Petróleo Nacional, turning the work of both over to Petróleos Mexicanos. Pemex was now to be operated by a council of nine, five to be named by the President of Mexico and four to be named by the Oil Workers' Union. The President was to name the general manager and his assistant.[62]

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[62] "Decreto Que Deroga Los Que Crearon la Distribuidora de Petróleos Mexicanos y la Administración General del Petróleo Nacional y Modifica El Que Creó la Institución Denominado Petróleos Mexicanos. México, D.F., á 8 de Agosto de 1940," in Boletín de Minas y Petróleo, Octubre de 1939 á Junio de 1941, pp. 238-239.

The oil union, in a series of advertisements, attacked the administration of Pemex on August 9, 1940. The union accused Pemex of aiding the foreign companies by calling the attention of the world to the "failure of the industry," and declared the difficulty actually was bad management. Pemex had bought materials at high costs and had advanced large sums on contracts without charging interest; it had stored material which should have been rejected and kept materials, e.g., medicines, in storage so long that they deteriorated. Oil was shipped to Houston, Texas; it paid the export tax on leaving, and, when returned as gasoline, it paid the import tax. Capital in inventories was double that which the companies had kept, according to the union. New capital investments of a hundred million pesos were extravagantly high for the industry's reserves of capital, and large sums were devoted to propaganda, the union proclaimed. Wells sanded up from being shut down, despite union warnings. Worst of all, declared the union, the control of income and expenditures was disasterous and kept secret, the most flagrant example being the low contract price for oil sold to the Eastern States Petroleum Company.[63]

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[63] Advertisement of executive committee of the Sindicato de Trabajadores Petroleros de la Republica Mexicana in El Excelsior, August 9, 1940, p. 10.

The mixed commission set up by the union, Pemex, and the Department of Labor for the reorganization of the industry fail-

ed in its task as a result of which the government ordered Pemex to carry out the original orders to cut expenses. The oil union then voted a general strike in the industry and also declared it was going to withdraw from the C.T.M. The former executive committee of the Oil Workers' Union had in the majority taken places in the nationalized oil industry and the new executive committee which succeeded had removed itself from close ties with the C.T.M. For a year or more the C.T.M. had no information concerning the developments between Pemex and the oil union. With the action of the Oil Workers' Union in the fall of 1940, however, the C.T.M. decided to intervene in the dispute since the C.T.M. originally had aided the oil workers in their struggle to nationalize the industry and the national union organization did not feel that the problem was exclusively one of the oil workers. Consequently, the C.T.M. convoked an assembly of all the unions and national federations of industry in the Federal District, Tamaulipas, and Vera Cruz. The convention met September 19-20, 1940, with the executive committee of the oil workers. As a result of the meeting an extraordinary commission of workers from the various unions was set up to aid in the immediate reorganization of the industry and to protect the interests of the union and the industry as well, since the whole question touched serious political, economic, and international problems facing Mexico.[64]

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[64] Confederación de Trabajadores de México, C.T.M. 1936-1941, pp. 1030-1034.

The extraordinary commission interviewed Cárdenas, presenting evidence of bad administration in Pemex, and secured permission to make its own economic study of Pemex to see if interference with the workers' savings funds, rent allowances, and vacations could be avoided. The study found Pemex's budget included unusually large estimates of expenses for the second half of 1940 and for capital investments in the same period. It found that the Mexican government received 53.4% of the gross income of Pemex for taxes, capital works, and amortization of the expropriation debt. Large quantities were spent in amortization of capital in a single year. The commission found that if investments for capital works were deducted from the deficit, Pemex showed a profit of 4.9%. As a result of its study, the commission proposed that taxes should be collected in a fair proportion to the industry's income, that the industry should be operated on a commercial basis rather than a governmental basis, that a program co-ordinated with the economic situation of the industry should be worked out for capital improvement, and that contracts for low-price sale of oil should be cancelled. The plan was presented to Cárdenas who authorized its discussion by the commission with Pemex and the Department of Labor. Pemex agreed that the savings fund, house rent, and vacations should be retained but insisted on a cut of five thousand in the working force. The commission counter-proposed a reduction of four thousand workers from the number after March 18, 1938, the cut to be made by Pemex and the Department of Labor without inter-

vention by the union.[65] Agreement was reached on the basis of

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[65] Confederación de Trabajadores de México, C.T.M. 1936-1941, pp. 1035-1039.

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the negotiations, and the immediate crisis passed.

While negotiations went on directly between Pemex, the government, and the C.T.M., the committee of experts to make the economic study of the industry requested by Pemex in July, 1940, was not appointed. At the end of September, 1940, however, Enrique Sano, chief of the Department of Economic Studies of the Bank of Mexico; Miguel Manterola, economist and public accountant; and José López Portillo y Weber, petroleum engineer, were named. Their report, presented to the Labor Board on October 31, 1940, was not made public, but, according to Silva Herzog, it declared that new explorations were necessary to assure the life of the industry which was exhausting existing pools of oil; that great quantities of gas were still wasted in the oil fields; that the division of the industry into numerous districts, regions, groups was not justified in the consolidated, national organization; that the percent of crude treated in refineries, 1938-1940, was below that of 1936-1939; that total exports of crude and derivitives decreased 27.5% in 1938-1940 below that of 1936; that crude exports in 1936 were only 27.8% of total petroleum exports but were 68% in the first six months of 1940; that exports of refined gasoline decreased from 17% of exports in

1936 to 0.1% in January-June, 1940. The report pointed out that consumption within Mexico of petroleum products increased 34.2% by January-June, 1940, over 1936. Gasoline consumption alone increased 53.2% in the period. According to the report, prices received for oil products within Mexico were virtually the same as before expropriation while prices received for exported oil were considerably below the pre-expropriation level, at times as much as 55% below the former level. Personnel of Pemex had increased 45.16% from April, 1938, to October, 1939, and still was 25.10% above April, 1938, in September, 1940. By early 1940 wages and benefits to workers for Pemex rose 110% above April, 1938. At the same time the experts reported that imposts on exported oil products had risen sharply since August, 1938, to a level in some cases three times the previous duties. Imposts on exported oil increased from eleven million pesos in 1936 to 21,000,000 pesos in January-June, 1940. The experts found that in 1936 the companies' total sales were 256,234,501.06 pesos while sales totaled 234,098,180.37 pesos for Pemex in 1939, only 8.64% below the companies' level, yet the companies earned a profit of 53,235,265.29 pesos in 1936 while Pemex in 1939 lost 21,574,279.54 pesos.[66]

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[66] Silva Herzog, Petróleo Mexicano, 285-292.

The experts report was ruled upon by the Labor Board on November 28, 1940; the Board ordered that the level of person-

nel in the industry should be reduced to that of April, 1938; that all workers' salaries over seven hundred pesos a months should be reduced 10%; that temporary employees should be cut off at the end of the period for which they were hired without further responsibility by Pemex; that the listing of confidential positions as given in the award of 1937 should be followed; that Pemex should have full freedom in filling temporary vacancies without regard to seniority; that the work week should be forty-four hours; that workers could be moved freely during the reorganization; that vacations should continue at twenty-one days a year for employees with ten years service, at thirty days a year for workers with more than ten years seniority; that Pemex continue paying rent allowances of thirty pesos a month to workers earning ten pesos a day and of forty-five pesos a month for workers earning above ten pesos a day; and that the savings fund should be paid in cash when due in December, 1940.[67]

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[67] Silva Herzog, Petróleo Mexicano, 294-300. To pay the savings fund Pemex had to borrow ten million pesos.

The several investigations of Pemex, then, produced by the end of 1940 a general meeting of minds concerning the difficulties of the industry. Despite the effects of controversy and war, Pemex in 1940 enjoyed a productive year. Crude production rose to 44,036,000 barrels at a cost per barrel of 1.35 pesos; average daily crude production was 120,000 barrels and average

daily exports were 55,000 barrels. Value of exports increased to 93,366,000 pesos in 1940 while internal sales were 191,368,000 pesos. Investments in refining multiplied almost twice to reach 44,000,000 pesos and new drillings expanded to thirty-three holes of which twenty-three were productive. Total wells in exploitation decreased to 822, however. Volume of crude treated in refineries continued to decline, reaching a level sixty-one points below the 1937 index. Employment dropped slightly at the end of 1940 to 21,309.[68]

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[68] Secretaría de la Economía Nacional, Compendio Estadístico 1947, p. 312; Secretaría de la Economía Nacional, Anuario Estadístico 1941, p. 676; United States Tariff Commission, Mining and Manufacturing Industries in Mexico, 50; League of Nations, Monthly Bulletin of Statistics, XXII, 365; "Mexican Petroleum," in Commercial Pan America, XV, 42; "National Economy of Mexico," in Commercial Pan America, XV, 26; "Something to Our Credit...," advertisement of Petróleos Mexicanos in La Prensa, December 31, 1941, p. 21; "Mexican Petroleum," in Mexico News, I, 19; Noriega, Influencia de los Hidrocarburos en la Industrialización de México, 203-204; Seis Años de Gobierno al Servicio de México, 1934-1940, p. 207.

During 1941 the nationalized oil industry in Mexico operated with a minimum of disturbance compared to the years immediately following 1938. Crude production declined, nevertheless, below the 1940 level to about 42,000,000 barrels--daily production averaging 117,000 barrels. Average daily exports decreased to 43,000 barrels, or about sixteen million barrels annually. Number of wells in production rose to 924. The number of employees dropped to 19,978 and payments to workers declined to

91,993,462 pesos. The value of exports of petroleum products fell rather sharply in 1941 although during 1941 Pemex added seventeen vessels to its high-seas fleet. Investment in refining ran to about forty million pesos and for the first time since 1937 there was a rise of eight points in the index for volume of refinery output, although crude treated yielded only 13% gasoline compared to 19% in 1937. Drilling activities further dropped, with only twenty-five holes sunk of which fourteen were producers. Pemex paid 175,000,000 pesos in taxes to Mexico in 1941.[69]

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[69] Secretaría de Gobernación, Seis Años de Actividad Nacional, 316; Secretaria de la Economía Nacional, Anuario Estadístico 1941, p. 676; Secretaría de la Economía Nacional, Compendio Estadístico 1947, pp. 312-313; 447; League of Nations, Monthly Bulletin of Statistics, XXII, 365; United States Tariff Commission, Mining and Manufacturing Industries in Mexico, 50; "Mexican Petroleum," in Commercial Pan America, XV, 25-26; "Something to Our Credit...," advertisement of Petróleos Mexicanos in La Prensa, December 31, 1941, p. 21; Noriega, Influencia de los Hidrocarburos en la Industrialización de México, 202-204; "208,000,000.00 for Mexico," advertisement of Pemex in El Excelsior, January 1, 1942, p. 16.

The calm marking 1941 in the oil industry was abruptly broken in January, 1942, when thousands of suits were filed by workers against Pemex to collect the discounts made from workers' salaries under the agreements produced by the dispute of 1940, which had cut workers' wages below the "contract" level.[70]

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[70] "Pemex Sued for Huge Amount," in El Excelsior, January 24, 1942, p. 3.

Union dissatisfaction again broke into the open in March, 1942, when the Oil Workers' Union declared that after four years the management of Pemex had not even reached the level of benefits paid in some local contracts prior to expropriation, much less the level of the award of 1937. The union declared chaos and anarchy prevailed to the detriment of the workers in the industry and accused the management of Pemex of attempting to impose sterile sacrifices on the workers by trying to avoid payment of overtime for work done beyond the legal laboring day, by increasing the number of confidential employees, and by trying to create inequities among workers of the same general category. The union hinted that it felt the conditions in the industry could best be remedied by putting it into the hands of the union.[71]

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[71] "Grave Conflict in the Petroleum Industry," advertisement of Oil Workers' Union in El Universal, March 6, 1942, p. 9.

The union announced a general work stoppage would take place in protest against Pemex's policy of refusing to conclude a new general contract, arbitrarily suspending workers' benefits when they were on "special leaves," arbitrarily moving workers over the country, and refusing to grant "special leaves" except after much red-tape.[72] The work stoppage took place from ten to eleven

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[72] "The Petroleum Syndicate Will Stop Work," in El Excelsior, March 8, 1942, p. 8. "Special Leaves" very likely were for union business.

o'clock in the morning on March 10, 1942, for the announced purpose of protesting Pemex's administrative policy of hindering the signing of a new general contract. The Secretario de Gobernación requested the union not to strike since that would harm the national economy and hinder the contract negotiations, but the demonstration was held.[73] The dispute passed, however, without further disturbance.

[73] "Secret Order to Fourteen Thousand Petroleum Workers to Carry Out a Stoppage Today," in El Excelsior, March 10, 1942, p. 1. See also "The Announced Suspension of Work in the Petroleum Industry Took Place Yesterday," in El Excelsior, March 11, 1942, p. 1.

The oil industry in 1942 continued to produce, but the export market again was hard hit by the expansion of the European war to include the United States and Japan in late 1941. Exports of oil plummeted to a daily average of only 17,000 barrels, less than seven million barrels for the year, with a value less than half the income produced by oil exports in 1941. Production for 1942 dropped to 35,152,000 barrels, averaging only 95,000 barrels a day, and the number of producing wells fell to 615. Drilling almost stopped, as only fourteen holes were sunk, of which six were producers. Refinery production increased, however, reaching the 1938 level.[74]

[74] Secretaría de Gobernación, Seis Años de Actividad Nacional, 317; Secretaría de la Economía Nacional, Compendio Estadís-

tico 1947, pp. 312, 313, 447; United States Tariff Commission, Mining and Manufacturing Industries in Mexico, 50; League of Nations, Monthly Bulletin of Statistics, XXII, 365; Noriega, Influencia de los Hidrocarburos en la Industrialización de México, 203-204; "Mexican Petroleum," in Commercial Pan America, XV, 42; "National Economy of Mexico," in Commercial Pan America, XV, 25-26; Secretaría de la Economía Nacional, Oficina de Barometros Económicos, El Desarrollo de la Economía Nacional Bajo la Influencia de la Guerra, 1939-1945.

By 1943 the central position of the oil industry in Mexican politico-economic affairs was fading into a place less prominent than it had occupied for a generation. Avila Camacho reported that Pemex was paying yearly 99,000,000 pesos to the workers, who were (at least 90% of them) receiving better salaries than before with medical service doubled and increased school facilities available for their families. In his New Year's message for December 31, 1943, President Avila Camacho did no more than refer to the oil industry as being the subject of special attention on the part of the government which was pressing exploration for new deposits and the completion of new refining plants.[75] The industry at long last was not an inter-

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[75] Manuel Avila Camacho, Informe Que Rinde al H. Congreso de la Unión sobre la Acción Desarrollada por la Administración Pública del 1° de Septiembre de 1942 al 31 de Agosto de 1943, pp. 48-49; and Manuel Avila Camacho, Mensaje á la Nación y Otros Discursos, 35.

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national problem but simply another Mexican industry.

CHAPTER XV

EXPROPRIATION AND SETTLEMENT: CONCLUSION OF AN ERA

The payment of the debt contracted by Mexico with the expropriation of the oil industry was of major concern to the Mexican government from the very beginning and ultimately came to be the chief aspect of the problem in the international sphere. Payment of the debt, Cárdenas announced March 23 and again March 26, 1938, was an obligation Mexico recognized, accepted, and would meet.[1] The difficulty was how to determine what the size of the payment should be and then how to raise the money to pay.

[1] Speech of March 23, 1938, and Manifesto of March 26, 1938, printed in Cárdenas, Messages to the Mexican Nation on the Oil Question, 15, 20.

The first step toward organizing a means of paying for the properties was a meeting of all the governors of the Mexican states convened in Mexico City on March 22, 1938. The assembly was called by Miguel Alemán, governor of Vera Cruz, and at it the governors offered the federal government 5% of state revenues to build a fund for paying the debt and made personal pledges as well. The governors also set up a commission to study the problem and the commission recommended, March 28, 1938, that a loan be floated within the country for a hundred million pesos.[2] Voluntary collections were taken from the peo-

[2]"Envisión de Bonos por 100 Millones de Pesos," in El Universal, March 28, 1938, p. 1. See also Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 127, and Shepardson and Scroggs, United States in World Affairs: 1938, p. 241. The effort to float the loan was a failure and it was cancelled.

ple, and even the hierarchy of the Mexican Catholic Church authorized the taking up of contributions in the churches. By mid-August, 1938, about 2,200,000 pesos were raised by that means. All members of the C.T.M. were urged to contribute five pesos each to the national loan, also.[3]

[3]Shepardson and Scroggs, United States in World Affairs: 1938, p. 241. See also Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 127, and the Confederación de Trabajadores de México, C.T.M. 1936-1941, p. 598. Evelyn Waugh in his Robbery under Law, 119, contended that the voluntary loan was a propaganda maneuver in which the government lent cattle to the peons around Mexico City one day with the understanding that the next day they would be driven in to the capital and donated to the government.

None of the early efforts to raise funds to pay for the expropriated properties produced any quantity of cash even remotely near the least of the estimated values of the industry and it was evident that payment would have to be deferred and paid at the smallest possible amount, if compensation were to be made at all. In her diplomatic correspondence with both Britain and the United States, Mexico made it clear in the spring of 1938 that she sincerely intended to pay, but only a sum she regarded as equitable and within a period determined

by herself.[4]

[4] See above, Chapter VI.

Insofar as Mexico was concerned her attitude was that she had the right to expropriate for purposes of public utility by means of compensation; that private property did not exist in uncaptured oil; that the fair value of concessions was the amount paid for them to the state; that payment did not have to precede or be simultaneous with expropriation to make it valid; and that it was not necessary to appeal to the courts to determine public necessity in cases of expropriation for public utility.[5] On the other hand, the private companies expropri-

[5] Government of Mexico, The True Facts, 229-230. Both the Mexican and the United States' Supreme Courts had upheld these contentions, according to ibid.

ated contended that a basic tenet of international law was that adequate compensation had to be paid for expropriated property before it was taken and that no title passed until such compensation was made.[6] Since Mexico could not pay immediate compen-

[6] McMahon, "Case of the American Oil Companies," in S. D. Meyers (ed.), Mexico and the United States, Proceedings of the Fifth Annual Conference Institute Public Affairs Auspices Carnegie Endowment for International Peace, 1938, p. 87.

sation and her ability to pay adequate indemnity even on a deferred basis was seriously doubted--even considered impossible--the companies demanded return of the properties intact if Mexico were not to be guilty of confiscation and denial of justice before international law.[7]

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[7] Ibid. See also Standard Oil of New Jersey, Present Status, 48, 91; Latane and Wainwright, A History of American Foreign Policy 1776-1940, p. 871; and "Absurd Thesis of the Standard Oil," from column "Yesterday They Said," in El Popular, November 24, 1941, p. 5.

The assurance of the oil companies that Mexico could not pay adequate indemnity, either immediately or ultimately, was based on their evaluation of the expropriated properties. Their properties to be compensated for, according to the companies, consisted of (1) fee simple lands held for production purposes and containing oil reserves; (2) fee simple lands purchased and used for refining sites, etc.; (3) easements and grants of rights of way for installations which were to revert to the state on cancellation of the concession; (4) oil leases granted originally by private landowners and in some cases covered by confirmatory concessions; and (5) intangibles, such as marketing good will, trade names, lost profits, etc.[8] Since

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[8] Standard Oil of New Jersey, Present Status, 95.

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the companies felt that payments for their property were actual-

ly beyond Mexico's capacity, they refused to accept expropriation and to present monetary claims for their property.[9]

[9] Ibid., 66.

Mexico, on the contrary, declared that she could and would compensate the oil companies but only to the extent of paying for the companies' justifiable investments not recovered by exploitation of the subsoil and certainly not for oil still below the surface which was a part of the national domain.[10] Even

[10] Shepardson and Scroggs, United States in World Affairs: 1938, pp. 241-242. See also Gaither, Expropriation in Mexico: The Facts and the Law, 39.

the President of the United States declared the companies could expect payment only for legitimately held property to the extent of recovery of the actual investment, less depreciation due to operations, with no compensation for lost profits.[11]

[11] Shepardson and Scroggs, United States in World Affairs: 1938, p. 245.

Mexico pointed out that property rights were not established by international law but by municipal law, and Mexican law concerning property in the subsoil had assigned it to the nation by Article 27 of the constitution which was declared

retroactive by the Mexican Supreme Court on May 10, 1938.[12]

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[12] Government of Mexico, The True Facts, 208. See also Standard Oil of New Jersey, Mexican Expropriations in International Law, October, 1938, typescript, 70, and Standard Oil of New Jersey, Present Status, 38.

Subsequently, Mexico should have to pay the expropriated companies only for their surface properties and at the amount assessed in the cadastral records in which the value of the land was rendered without regard to subsoil wealth for tax purposes.[13]

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[13] Standard Oil of New Jersey, Present Status, 3; Standard Oil of New Jersey, Mexican Expropriations in International Law, October, 1938, typescript, 68.

If such valuations resulted in injustice due to fraud in rendering tax values, the proprietor could scarcely complain, since his own hands would not be clean.

Deferment of whatever sum was finally agreed upon as the proper indemnity was also a necessity for Mexico. Since the United States had demanded prompt compensation and since Mexican law provided for non-agricultural expropriations to be indemnified in a period of not more than ten years, Mexico was faced with the necessity of arranging moderately rapid payment of whatever value was assigned to the expropriated properties. Although the Expropriation Law of 1936, providing for ten years as the maximum time for expropriations to be compensated, was

questioned as being contrary to Article 27 of the constitution, the Mexican Supreme Court had ruled in a number of obiter dicta in cases involving expropriations and compensation that in filling an urgent need of the state, the government, if economic conditions did not permit, might not pay at once but limit payment to the possibilities of the federal treasury if failure to expropriate might prejudice the interest of the nation.[14]

[14] Gaither, Expropriation in Mexico: The Facts and the Law, 129, 136; Cuellar, Expropiación y Crisis en México, 528; and Government of Mexico, The True Facts, 172-175.

Mexico resisted the United States' interpretation of the rule of compensation in expropriations, for under it a sovereign state might find its power to act conditioned by its ability to pay, a situation incompatible with sovereign power. Instead, Mexico acted; at the same time she agreed that a price was to be paid for the privilege of delaying the payment of compensation, which penalty she accepted. Such indemnity could be fairly considered compensation for expropriation.[15]

[15] Hyde, International Law, I, 719-720.

The companies' attack upon expropriation in the Mexican courts ended with the judgment of the Supreme Court on December 2, 1939.[16] In its decision the Supreme Court of Mexico

[16]The judicial phase ended except for a brief flare up produced by the Supreme Court decision in January, 1942, which ruled that the Sabino Gordo Petroleum Corporation had acquired rights to the subsoil by a confirmatory concession of pre-1917 property rights which could not be nullified by simple executive order. Momentarily it appeared that all companies with pre-1917 property rights later confirmed by concession could claim indemnification, but Supreme Court Justice Alfonso Francisco Ramírez, author of the decision, declared that the judgment was related only to the revocation of a confirmatory concession of property rights obtained prior to 1917 by the company, the revocation being made by the Secretario de la Economía Nacional after the Secretaría de Agricultura declared the land national property. See "The Supreme Court Recognizes the Rights of the Petroleum Companies to the Subsoil Governed by Concessions Issued Prior to 1917," in El Excelsior, January 30, 1942, p. 1, and "The Petroleum Expropriation Is a Consummated Act," in El Nacional, January 31, 1942, p. 1.

ruled that the oil companies could not be protected against the actions of Mexican officials based on the Expropriation Law of 1936; the executive promulgation of the Expropriation Law of 1936; the Expropriatory Decree of March 18, 1938, or its application (including payment for the properties over a ten-year period by production from the expropriated properties); the executive decision of October 18, 1938, refusing to revoke expropriation; or the acts of procedure in executing the Expropriatory Decree (except in regard to the taking of possession of accounting books, files, accounts receivable, cash, and securities of the companies).[17] With this decision, the oil com-

[17]Decision of Mexican Supreme Court, December 2, 1939, printed in Jones and Myers (ed.), Documents on American Foreign Relations, July, 1939-June, 1940, II, 220-222.

panies had exhausted the judicial processes of Mexico, a prerequisite in international law to a claim of denial of justice. The companies therefore declared that the judgment of the Supreme Court of Mexico denied them justice by (1) declaring that the deprivation of an owner, lessee, or concessionary of his right to exploit the subsoil did not destroy a property right; (2) upholding administrative seizure of property without preliminary hearings, without designation of specific property, without judicial procedure, and without compensation; (3) sanctioning expropriations when compensation was left uncertain and was to be taken from the production of the expropriated properties; and (4) ruling that the properties had to be paid for only to the extent of legitimately invested capital for productive purposes, plus the tax value of real estate and installations at cost, without regard to the fact that investment was not the measure for value.[18]

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[18] Objections of the Oil Companies to the Supreme Court Decision of December 2, 1939, printed in ibid., II, 223-224. See also Standard Oil of New Jersey, Present Status, 69.

Soon after expropriation (April 6, 1938), the Mexican government ordered 20% of oil production set aside to build a fund to pay for the expropriated properties, having already invited the companies to meet with the government to determine the size of the indemnity. The companies, however, refused to participate in any evaluation of their properties, demanding

return of their possessions.[19] Continued efforts were made to come to terms with the companies which on May 12, 1938, were offered 60% of Mexican oil for export with the right to retain a part of it for their compensation.[20] This offer was rejected as was a proposition on May 26, 1938, in which Mexico tendered the companies the right to 60% of oil production at a below-market price, the companies to sell the oil at the world price and keep the difference for their compensation. The companies, however, refused to consider anything less than unconditional return of their properties, maintaining that to negotiate with Mexico on the basis of payment from a percentage of the oil produced from their former properties would put the companies in the position of recognizing the legality of expropriation, accepting the status of creditors to a nation in default, waiving compensation to the principal part of their property, the subsoil, and encouraging Mexico to reduce the sum due for surface properties by claims for severance pay, unpaid wages, etc.[21]

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[19] Thomson, "Washington News Letter," in Foreign Policy Bulletin, XVII, 3.

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[20] Thomson, "Latin America for the Latin Americans!" in Foreign Policy Bulletin, XVII, 1.

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[21] Thomson, "Impasse Blocks Oil Settlement," in Foreign Policy Bulletin, XVII, 2, and Richberg, The Mexican Oil Seizure, 34-35.

In view of the unrelenting attitude of the oil companies, the Mexican government ordered a unilateral appraisal of the companies' value after May, 1938, charging 143,000,000 pesos against the potential value of the properties in penalties for breaking the workers' contract and in fines.[22] In the mean-

[22] Kluckhorn, The Mexican Challenge, 128.

while Cárdenas accepted in June, 1938, a proposal by Under-secretary of State Sumner Welles that the value of the seized properties and means of payment be determined by a commission of three, one member named by each government and one by the three diplomatic representatives of longest service in Washington.[23] Nothing came of the proposal, however, although diplo-

[23] Paul B. Taylor, "U.S.-Mexican Negotiations Deadlocked," in Foreign Policy Bulletin, XVII, 2.

matic correspondence on the agrarian expropriations produced the agreements of November, 1938, which did settle a method for determining compensation due Americans for expropriated farm lands taken after August 30, 1927.[24]

[24] See above, Chapter VI.

The companies, still avoiding any gesture toward agreeing to an evaluation of their properties, proposed in July, 1938, that the United States, Britain, and the Netherlands suggest to Mexico that the issues of denial of justice, legality of the expropriation decree of March 18, 1938, in international law, and validity of seizure of the properties without compensation be submitted to a court of three judges selected from the panel of the Permanent Court of Arbitration at The Hague.[25]

[25] Standard Oil of New Jersey, Present Status, 74.

That proposition was rejected by Mexico which pointed out that the root of the controversy was the inability of the companies and labor to reach a working accord--an inability made more acute by the subsequent actions of the companies in an effort to damage the Mexican economy. Mexico further declared that the company proposal for arbitration was impossible since Mexico rejected diplomatic intervention on the part of Holland and England in favor of a Mexican company and since the United States had already recognized the expropriation. Therefore, none of the company-proposed issues was arbitrable in Mexico's opinion.[26]

[26] Government of Mexico, The True Facts, 266-268.

United States pressure for some action in regard to the expropriated oil properties was constant, but not oppressive. In fact, Cárdenas himself declared that the attitude of the United States had been very fair and had confined itself to tendering good offices with the intent of bringing about direct negotiations between Mexico and the companies.[27] Cárdenas' viewpoint was that diplomatic pressure and international threats should not be used between non-warlike powers in a case where no denial of justice was involved. Furthermore, Cárdenas held that no matter how great the interests involved in the oil dispute, the interests of continental harmony soared above them and the duty of democratic peoples to unite overshadowed any private interests.[28]

[27] Message Presented to Congress by the President of the Republic of Mexico, General Lázaro Cárdenas, Covering the Fifth Year of His Term of Office, September 1, 1938, to August 31, 1939, p. 17.

[28] Ibid., 21-22.

Late in 1938 a proposal for negotiation was arrived at which was acceptable to the companies, Mexico, and the United States, and, at the suggestion of the Department of State, the companies and Mexico conferred in an effort to arrive at some settlement of the controversy.[29] The company proposals for a

[29]Richberg, The Mexican Oil Seizure, 36, and Standard Oil of New Jersey, Present Status, 66.

basis of further discussion, presented to the State Department January 26, 1939, were (1) that a long term contract providing for operation of the expropriated properties by the respective companies without any claims, restrictions, or obligations not specified in the contract be drawn up; (2) that a fixed schedule of rates determining all taxes and other payments be set up for the duration of the contract; (3) that a reciprocal guarantee of reasonable and practical labor obligations be given for the life of the contract; (4) that provision be made for reimbursement of the companies for losses sustained during the interim of expropriation; and (5) that on the expiration of the contract all claims and interests of the companies in producing properties escheat to the government of Mexico without further payment to the companies.[30] The plan was presented

[30]Standard Oil of New Jersey, Present Status, 67. See also Leven, Done in Oil, 288.

to the Department of State for approval and then to Mexico's ambassador to Washington, Castillo Nájera.[31]

[31]Standard Oil of New Jersey, Present Status, 67.

The Mexican government agreed to discuss the matter with the companies, which appointed Donald R. Richberg as their special representative to handle the details of negotiation for the English companies and Standard Oil.[32] Richberg conferred

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[32] Bureau of Information of the Mexican Government, Oil: Mexico's Position, 9, and Government of Mexico, The True Facts, 107. Patrick J. Hurley was appointed to represent the Sinclair interests but did not go to Mexico with Richberg, who apparently thought he represented Sinclair also. See Government of Mexico, The True Facts, 107, and Hurley, The Struggle for the Mexican Oil, 8 ff.

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with Castillo Nájera in Washington and then Richberg went to Mexico City where he conferred with Cárdenas and/or Castillo Nájera in eight conferences held between March 8 and 22, 1939.[33]

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[33] Government of Mexico, The True Facts, 103, and Richberg, The Mexican Oil Seizures, 37.

During the March conferences Richberg made no definite proposals for administering the oil properties beyond the general plan presented to Castillo Nájera in Washington, but he did indicate that agreement upon a contract implying future settlement meant an influx of foreign capital if the companies had a large enough part in the management of the industry to reassure investors.[34]

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[34] Government of Mexico, The True Facts, 107-108, and Richberg, The Mexican Oil Seizures, 37. See also Bureau of Information of the Mexican Government, Oil: Mexico's Position, 10.

Mexico rejected the company proposals concerning guarantees in regard to future taxes and relations with labor since to agree to the one would imply curtailment of the powers of the congress and to consent to the other would imply totalitarian imposition of working conditions upon labor by the government when the law provided for collective bargaining.[35] Mexico

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[35] Bureau of Information of the Mexican Government, Oil: Mexico's Position, 9, and Government of Mexico, The True Facts, 19.

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accepted the company proposal for an arrangement to operate the industry to the mutual benefit of both parties, although the company representative had no definite proposal for such an arrangement. Cárdenas suggested the immediate joint evaluation of the properties and payment for them, a long-term contract for co-operation between the government and the companies in exploitation of the industry, and arrangements for new investments to promote the development of the industry, but with management of the business left in the hands of the Mexican government.[36] The industry was to be operated by a co-operative

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[36] Bureau of Information of the Mexican Government, Oil: Mexico's Position, 10, and Government of Mexico, The True Facts, 108-109.

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association between Mexico and the companies, consisting of capital from the companies equal to their compensation plus new

investments for further development of the industry. Mexico was to contribute to the corporation the oil properties of the nation with management to be in the hands of the government, but the technical and financial divisions were to be controlled in part by the companies to reassure them as to operating efficiency. Relations between the companies and Mexico were to be regulated by one contract setting up a single corporation.[37]

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[37] Government of Mexico, The True Facts, 111-112.

Richberg presented no counter proposal but suggested that appraisal of the properties would take a long time and insisted that some other basis be found for reaching an understanding since payment for the properties would leave no framework for future collaboration, which American capital desired.[38] The

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[38] Ibid., 109.

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conference apparently adjourned at that point and Richberg returned to the United States where he announced that agreement had been reached upon everything but the Mexican insistence on a prompt evaluation of the properties as a foundation for drawing up the terms of the contract and Mexico's demand for governmental control of management of the industry. (These were the major problems, of course.) Cárdenas had requested that further conferences be held in April, 1939, but Richberg had told him

that further consultation was useless unless Mexico's attitude changed.[39]

[39] Richberg, The Mexican Oil Seizures, 38.

Mexico's attitude moved toward compromise, apparently, for on April 12, 1938, Richberg received a long distance call from a representative of Cárdenas informing him that Mexico would agree to postpone evaluation of the properties until the end of negotiations and not discuss the matter at all if a satisfactory solution were reached by other means. In regard to administration Mexico proposed that the disagreement be avoided by the making of four contracts rather than one.[40] To continue

[40] Ibid., 39.

negotiations on that basis, conferences were resumed in San Antonio, Texas, between Richberg and Castillo Nájera on April 27, 1939. Company requirements for a working contract being outlined by Richberg, a new meeting between him and Cardenas was arranged at Saltillo, Coahuila, May 3, 1939. At Saltillo Richberg presented the first definite proposal for joint operation of the industry made by the companies. The company plan presented by Richberg recommended (1) that each company consolidate its interests into one Mexican corporation under a board, the majority of which would be Mexican and would have the power

to name the managers; (2) that the Mexican government make a long-term contract with each of the corporations for the development of its properties described in the contract; (3) that at the expiration of the contract all claims of the corporation be released to Mexico; (4) that the Mexican government name a board of supervision to oversee the development of properties and assure the adherence to the contracts; (5) that the corporations carry out their contracts through technical and financial divisions; (6) that a joint board of accounting and adjustment examine records to check fulfillment of obligations and the adjustment of differences; (7) that reciprocal, reasonable labor conditions be guaranteed; (8) that government revenue be assured by a fixed percentage of oil output; and (9) that the Mexican corporations undertake the risk of compensating their investors from proceeds after meeting their contract obligations.[41] Cárdenas objected to the company proposal that each

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[41] Government of Mexico, The True Facts, 120.

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corporation have a general manager on the grounds that it would leave the impression that the companies controlled management, an impression precisely the opposite to that which Mexico wanted to establish. The President insisted that the government of Mexico must name a majority of the board of directors and the managers of the corporations although he agreed that the companies should have representation in the administration of the

corporation equivalent to their contributions in assets.[42]

[42] Ibid., 125-126.

A statement was issued by both parties after the conference declaring that the meeting had been fruitful and represented progress toward a settlement.[43] The principal differences at

[43] Richberg, The Mexican Oil Seizures, 40, and Bureau of Information of the Mexican Government, Oil: Mexico's Position, 11. See also Government of Mexico, The True Facts, 126.

Saltillo to the conclusion of the contract were those over the respective functions of company and government officials in operating the expropriated companies, since the companies insisted on enough control to safeguard investment and operations and the government on sufficient to insure public interest and essential nationalization.[44] Mexico considered the disagree-

[44] Richberg, The Mexican Oil Seizures, 40-41. For some reason Richberg seemed to think that the questions were concerned with technical matters and not with principle and to have regarded the whole problem as practically solved.

ments in that regard as making the company proposition completely unacceptable and so notified Richberg some six weeks subsequently.[45] Mexico reverted to her earlier demand that the

[45] Ibid., 41. See also Bureau of Information of the Mexican Government, Oil: Mexico's Position, 11.

properties be evaluated and paid for in installments out of oil production, which threatened to break up the negotiations since the companies found the idea repugnant.

The United States urged the companies not to end the exchange of views, and Castillo Nájera and Richberg drafted a memorandum in June, 1938, which was to be used as a possible foundation for the drawing up of a contract, although neither party accepted the proposal as it was but merely agreed to present it to the respective parties they represented.[46] According to the document, basicly the same as that of Saltillo, each group of investors (Standard Oil of New Jersey, Standard Oil of California, Sinclair-Pierce, and British) was to consolidate its interests into one new Mexican corporation in which the majority of the boards of directors would be Mexican and was to name the manager of each corporation; the Mexican government would make a long-term contract with each of the corporations including a provision that at the end of the contract the designated properties would escheat to the government; the Mexican government would name a governmental board of supervision to

[46] Richberg, The Mexican Oil Seizures, 42.

oversee the development of the properties under contract; the board would name a joint board of accounting and adjustment containing an equal number appointed by the boards of directors of the respective corporations; the contract would guarantee reciprocal, reasonable working conditions and means for maintaining them; the government was to be assured adequate revenue by receiving a portion of the oil produced; all oil for export purposes would be assigned to the government or to the companies according to the terms of the contract; each corporation would take the risk of paying its investors and amortizing its capital from the proceeds of operations after meeting its contract obligations to government and labor; and the companies would release all properties, whether compensated for or not, at the end of the contract.[47]

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[47] Ibid., 43-44.

The Mexican government notified Richberg July 5, 1939, that it insisted upon control of the corporations to be organized by naming a majority of the board and the president of each corporation. Richberg declared that the demand was impossible for the companies to tolerate since the new corporations were to be operated privately under contract. He informed Mexico that on those terms further dealings were hopeless.[48]

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[48] Richberg, The Mexican Oil Seizures, 45-46.

In the deadlocked situation Undersecretary of State Sumner Welles laid before the parties a compromise solution. The United States suggested that the boards of directors temporarily be made up of nine persons, three appointed by the Mexican government, three named by the oil interests, and three selected mutually from a panel of nine drawn up jointly by the Mexican and United States governments. No persons were to be named to the panel who were nationals of any of the countries with direct or important interests in the oil companies involved.[49]

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[49] Statement by the Undersecretary of State Sumner Welles of August 14, 1938, printed in Jones and Myers (ed.), Documents on American Foreign Relations, July, 1939-June, 1940, II, 217-220.

The Department of State proposal was revealed in a newspaper article which erroneously attributed it to Cárdenas or to Richberg with the result that the companies denied responsibility for the suggested arrangement and declared that they had not swerved from their previous objectives. Castillo Nájera denied that either he or the Mexican government had sponsored the idea and declared that the Mexican government intended to retain control of the properties.[50] Standard Oil of New Jersey

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[50] Richberg, The Mexican Oil Seizures, 147.

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then notified the Department of State on August 10, 1939, that

private negotiations had failed.[51]

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[51] Standard Oil of New Jersey, Empty Promises, 1. See also Kirk, Covering the Mexican Front, 178. According to Kirk, a price cut for crude followed in Texas and was regarded by Mexico as another blow at Mexican sales abroad. Ibid.

Undersecretary of State Welles made a public statement on August 14, 1939, deploring the rejection of his proposal without its careful consideration by either party and declaring that the controversy had to be solved in accordance with international law since its continuance dislocated commercial relationships between Mexico and the United States and threatened the close and friendly understanding between the two which both governments desired. Welles stated that Mexico must make prompt, adequate, and effective compensation for the expropriated properties but that American citizens interested in the controversy should give ample and attentive consideration to constructive proposals made to settle it.[52] The Mexican government reiterated through President Cárdenas in a speech on September 1, 1939, and through the Partido de la Revolución Mexicana in the platform adopted in November, 1939, for the presidential election of 1940, that the management of the Mexican oil industry would never be returned

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[52] Statement of the Undersecretary of State Welles, August 14, 1939, printed in Jones and Myers (ed.), Documents on American Foreign Relations, July, 1939-June, 1940, II, 217-220.

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to the companies, that the industry was permanently nationalized.[53]

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[53] Partido de la Revolución Mexicana. Segundo Plan Sexenal, 1941-1946. Texto Aprobado en la Asamblea Nacional Celebrada en la Ciudad de México los Días 1, 2, y 3 de Noviembre de 1939 y Various Discursos Documentales Pronunciados por el Gral. Manuel Avila Camacho, Candidato Nacional á la Presidencia de la República, Postulado por el P.R.M., y por el Gral. Heriberto Jara, Presidente del C.C.E. del Propio Instituto Político, 72-73; 89. Hereafter cited as Segundo Plan Sexenal, 1941-1946. See also Richberg, The Mexican Oil Seizure, 49-50.

With the collapse of negotiations between Richberg and the Mexican government, the Standard Oil group ceased attempting to come to terms with Mexico. The Sinclair interests, which had named Patrick J. Hurley as their spokesman, had been requested by Standard Oil not to send their agent with Richberg to Mexico so that Richberg might speak for the whole American segment of the industry.[54] When Richberg failed, Hurley approached

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[54] Hurley, The Struggle for the Mexican Oil, 8. According to Hurley, Richberg was accompanied by such a flow of propaganda that the point of his visit to Mexico was lost sight of. Ibid., 9. See also Kirk, Covering the Mexican Front, 180.

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the Mexican government, proposing a separate settlement. In October-November, 1939, conversation opened between Hurley and Ambassador Castillo Nájera with Hurley asking forty million barrels of oil from Poza Rica as compensation, a sum which Mexico found exorbitant.[55] In December, 1939, negotiations continued

[55] Silva Herzog, Petróleo Mexicano, 173.

in meetings at which Hurley, Castillo Nájera, Silva Herzog, Eduardo Suárez, and, oddly, John L. Lewis, were present. In January, 1940, negotiations continued among Hurley, Lewis, Harry Sinclair, Suárez, Silva Herzog, Castillo Nájera, and other officials of Consolidated Oil. In March, 1940, Castillo Nájera presented Sinclair's proposal to settle for nine million dollars indemnity and a contract for twenty million barrels of oil delivered in four years. That was moderated later in the month to $8,500,000 (U.S.), to be paid in one million dollar installments within three years. However, just as agreement seemed certain, the United States government intervened again in a strong note demanding settlement of all the expropriations, agrarian and petroleum, by prompt, adequate, and effective compensation. After a delay, negotiations were resumed, however, and when Consolidated Oil Company agreed that compensation was for the properties of the expropriated companies and not for the purchase of stocks in the companies, final agreement was reached on May 1, 1940.[56] The indemnity of $8,500,000 (U.S.)

[56] Ibid., 173-183. Hurley declared that the Mexican negotiators were frank, precise, and courteous. See Hurley, The Struggle for the Mexican Oil, 15.

was regarded by Sinclair as adequate and effective, according

to Hurley, and represented according to Mexico, 40% of all American oil claims and 15% of the total claims for expropriated oil properties.[57] (Those figures indicated a total value for the

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[57] Hurley, The Struggle for the Mexican Oil, 16. See also Feuerlein y Hannan, Dólares en la América Latina, 127, and Silva Herzog, Petróleo Mexicano, 185. The contract on oil sales provided for Sinclair to take five million barrels of oil a year from Mexico and subsequently Sinclair was accused of unsettling the domestic market in the United States by excessive importations which caused the price drop for oil in Texas previously mentioned. Hurley showed that Sinclair at most imported 13,671 barrels a day against average daily United States' imports of 305,714 barrels in July, 1940. See Kirk, Covering the Mexican Front, 182, and Hurley, The Struggle for the Mexican Oil, in extenso.

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expropriated properties of $56,500,000 U.S.)

The American note of April 3, 1940, marked the re-entry of the United States government into the struggle over compensation for the petroleum expropriation for the first time since the concord reached in November, 1938.[58] The American note approach-

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[58] See above, Chapter VI. See also La Expropiación de los Bienes de las Empresas Petroleras en México. Nota Diplomatica del Gobierno de los Estados Unidos de Notreamerica, de 3 de Abril de 1940 y Contestación del Gobierno de México de 1 de Mayo de 1940.

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ed the problem through the long-standing agrarian claims, and it again suggested arbitration to determine the sum due the expropriated oil companies and provide for a method of payment.[59]

[59] Note of Secretary Hull to Ambassador Castillo Najera, April 3, 1940, printed in Jones and Myers (ed.), Documents on American Foreign Relations, July, 1939-June, 1940, II, 229.

Mexico was at once faced with heavy diplomatic pressure to agree to arbitration.

Mexico avoided arbitration when proposed by the United States as she had avoided it when suggested by the companies. In a note to Washington on May 1, 1940, Mexico declared that payment had not been made to the expropriated oil companies because they had prevented by every means at their disposal the evaluation of the properties. Mexico agreed that payment had to be made but only after the amount due had been determined, and the action of Mexico's courts in hearing protests exhausted. Secretario de Relaciones Exteriores Hay pointed out to the Department of State that Mexico had promised to pay, had succeeded in coming to agreement on compensation with the Sinclair group, still had the problem of evaluation before her courts, and, consequently, could not be accused of unwillingness to pay or of denying the companies justice. Therefore, Mexico refused to consent to diplomatic intervention in the form of arbitration but invited further correspondence with the companies and the United States on the general question of claims.[60]

[60] Hay to Daniels, May 1, 1940, printed in Department of State, Bulletin, II, 465-470. Gómez Robledo declared that arbitration was a proper process for determining when Mexico

should pay but that Mexico was wise to avoid it because the arbitration treaty of 1929 set a method of selecting arbiters who would be friendly to the United States. See Gómez Robledo, The Bucareli Agreements, 217-218.

After the propriety of expropriation had been upheld in the last possible court action open to the companies by the decision of the Mexican Supreme Court on December 2, 1939,[61]

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[61] See above.

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the Mexican government had set about the evaluation of the petroleum properties unilaterally. The Sinclair-Pierce properties were evaluated at $8,500,000 (U.S.) in April, 1940, and the remaining properties at $35,525,000 (U.S.) by Mexican courts in August, 1940--a total estimate by the Mexican government that the American properties were worth $44,025,000 (U.S.) or 237,535,000 pesos in 1940. Standard Oil's share in the sum was set at $5,118,000 (U.S.).[62]

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[62] Leven, Done in Oil, 287.

The question of the value of the properties was a matter upon which there was universal disagreement. The wide variations in the estimates of the worth of the industry were accounted for chiefly by the inclusion or exclusion in the evaluations of the subsoil. Since Mexico insisted that the subsoil

was not property, Mexican calculations usually omitted it and consequently were low; foreign arithmetic included the subsoil and as a result its valuations were high. International law sanctioned the practice of compensating property losses to expropriated private holders by payment of the prevailing market price,[63] but whether the market price included the subsoil was

[63] Hackworth, Digest of International Law, V, 758.

a moot question. For tax purposes oil lands were entered only at the value of the surface so that the cadastral evaluation omitted entirely the wealth in the subsoil.[64] According to the

[64] Standard Oil of New Jersey, Mexican Expropriations in International Law, October, 1938, typescript, 68.

National Bureau of Economic Research there was some question as to whether payments for oil rights in the subsoil were real costs to the producer, since a fee simple owner ordinarily did not include in the cost of the production the value of oil in the ground or of mineral rights.[65]

[65] National Bureau of Economic Research, Price Research in the Steel and Petroleum Industries, Prepared for the Conference on Price Research, 161-163.

The industry had been valued in 1934 at 960,000,000 pesos

(271,944,400 U.S.), although the investment of the oil companies was set only at 250,290,463 pesos (69,522,350 U.S.) in the estimate. Of the estimated worth of the properties, United States investors held 52%; English-Dutch investors 41.5%; Mexican investors only 5%.[66] Total investment of the companies in 1935,

[66] El Aguila, The Mexican Oil Strike of 1937 (May 28-June 9), p. 66, and Charles W. Hackett, "United States-Mexican Relations since 1920," in S.D. Meyers (ed.), Mexico and the United States, Proceedings of the Fifth Annual Conference Institute of Public Affairs Auspices Carnegie Endowment for International Peace, 1938, p. 176.

according to El Aguila, was 274,048,116 pesos (76,124,476 U.S.), although the Brookings Institute declared the same year that $381,500,000 (U.S.) were involved in the industry.[67] The United States Department of Commerce, according to Charles A. Thomson, declared in 1935 that the total American direct investment in oil was $69,000,000 (U.S.), while the Mexican Industrial Census the same year estimated investments in refineries, oil fields, and pipe lines at one hundred million pesos (27,777,777 U.S.), of which 49,000,000 pesos (13,611,000 U.S.) was American, 41,000,000 pesos (11,388,888 U.S.) was British, and the remainder Mexican and other.[68]

[67] El Aguila, The Mexican Oil Strike of 1937 (May 28-June 9), p. 66, and "Mexico and Her Relation to American Defense," in Journal of Commerce and Commercial, CLXXXV, 23.

[68] Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 130-131.

The guesses at the value of the oil industry and the size of the actual investments in it continued in 1936. El Aguila declared that capital in the industry in 1936 was 273,538,452 pesos (approximately 76,000,000 U.S.), but in general the oil companies seemed to be valued in 1936 at 346,211,748 pesos (96,169,930 U.S.), including cash, foreign credit, and fixed assets.[69] Marchand valued the lands of the companies at an

[69] El Aguila, The Mexican Oil Strike of 1937 (May 28-June 9), p. 66; Manterola, La Industria del Petróleo en México, 44; Teja Zabre, Panorama Histórica de la Revolución Mexicana, 153; Bach y De la Peña, México y Su Petróleo, 23; and Marchand, L'Effort Democratique du Mexique, 72.

additional 108,000,000 pesos, making his total in 1936 some 454,211,748 pesos (126,164,930 U.S.); Mexican writers on the subject did not value the lands at so high a rate since Mexico denied any obligation to compensate for more than the surface lands owned with fee simple title. Moreover, Moises Saenz declared that much of the expropriated land was purchased at 0.50 (U.S.) per acre. Bach and De la Peña argued that between January, 1937, and March, 1938, the value of the properties was cut at least twenty million pesos by amortization and depreciation. Moreover, they declared that the liquid capital of the companies

176,760,955 pesos on December 31, 1936, was largely pulled out of Mexico during their dispute with the government, so that only 174,017,043 pesos (38,670,454 U.S.) represented the fixed capital investment of the companies in Mexican oil.[70] Accord-

[70] Marchand, L'Effort Democratique du Mexique, 72, and Bach y De la Peña, México y Su Petróleo, 23-24. See also Teja Zabre, Panorama Histórico de la Revolución Mexicana, 153, and The University of Chicago, Norman Wait Harris Memorial Foundation. Third Institute, June 29 to July 16, 1926, mimeograph, 140.

ding to Miguel Manterola, from the 1936 capitalization at 346,211,748 pesos should be deducted sums for deposits in foreign banks and inflation of land values totaling 75,000,000 pesos, leaving 271,000,000 pesos as the value of the oil industry. From that sum should be deducted 27,000,000 pesos belonging to Petróleos de México; 42,000,000 pesos in accounts collectable; ten million pesos in effective cash; nine million pesos in deferred charges; and six millions in inter-company credits. The residue, which represented what the properties' value for indemnification purposes was, came to 182,000,000 pesos (40,444,444 U.S.).[71]

[71] Manterola, La Industria del Petróleo en México, 44-46.

The Mexican government in one publication in 1940 figured that the balance sheets of the expropriated companies on March 18, 1938, showed their permanent assets to be 112,999,890.44

pesos (31,361,080 U.S.), of which the American companies had a small share since they had not made new investments but had exploited only proved fields.[72] But El Aguila, in the New York Times, was declared alone to be worth $250,000,000 (U.S.) (900,000,000 pesos), including concessions in the value. An indignant contributor to the "Letters to the Editor" section of the London Times stated that British oil property lost by expropriation amounted to eighty million pounds (400,000,000 U.S. or 1,440,000,000 pesos).[73] The properties of the American companies were said to have a value of two hundred million dollars (720,000,000 pesos) by press releases, although more conservative estimates calculated their worth as between $125,000,000-175,000,000 (U.S.). Standard Oil of New Jersey alone claimed to have lost $22,000,000 (U.S.) in the expropriation.[74]

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[72] Bureau of Information of the Mexican Government, Oil: Mexico's Position, 2-3.

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[73] "British Loss Is Huge in Mexican Oil Move," in The New York Times, March 20, 1938, p. 31; "Letters to the Editor," in The Times (London), March 24, 1938, p. 10; and Shepardson and Scroggs, United States in World Affairs: 1938, p. 243.

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[74] Thomson, "The Mexican Oil Dispute," in Foreign Policy Reports, XIV, 130; "Oil: The Blue Chip Game," in Time, the Weekly Newsmagazine, XLIX, 50.

Figures and counter-figures continued to clash. It was evident in 1940, however, that the compensation, when determined, would cover little more than the actual unrecovered investment in the oil industry. Both Roosevelt and Cárdenas had declared that was all that was due the companies, as also had announced the Mexican National Revolutionary Party and the Mexican Supreme Court.[75] The Mexican government declared in 1940 that the fixed

[75] Shepardson and Scroggs, United States in World Affairs: 1938, p. 245; Standard Oil of New Jersey, Present Status, 40.

assets of the companies according to their books were 115,576,042.55 pesos (34,882,233 U.S.), of which amount 50,199,227.77 pesos (13,944,243 U.S.) represented the American investment.[76] Conflicting figures on the value of the oil com-

[76] Mexican Government, The True Facts, 94-95. If the 1938 values were converted into dollars at the 1940 rate of 5.40 pesos to the dollar, the purchasing power of the peso in 1940 abroad, the sums would have become even smaller in terms of dollars. Standard Oil of New Jersey used that rate when it complained in 1940 that Mexico grossly undervalued the surface properties at only nine million dollars. See Standard Oil of New Jersey, Present Status, 3.

panies' properties showed in the valuations of various interested parties:[77]

	Official (pesos)	Private	Engineer
El Aguila	137,839,052.58	151,173,162.63	142,158,483.16
California	4,732,230.42	3,194,847.54	4,732,330.42
Consolidated	356,017.16	749,801.90	356,017.16

Imperio	1,874,361.55	1,602,623.54	1,874,788.73
Sinclair	1,407,009.73	1,454,047.21	1,409,132.34
Huasteca	25,975,246.50	25,055,233.90	25,622,049.89
Sabalo	1,063,399.05	31,262.95	1,070,975.07
Totals	153,247,316.99	183,260,979.67	177,223,776.77 pesos
	(42,568,699 U.S.)	(50,905,828 U.S.)	(49,228,827 U.S.)

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[77] Cuellar, Expropiación y Crisis en México, 314.

Silva Herzog reached figures varying from any other on the worth of the fixed properties of the oil companies:[78]

Lands, buildings, refineries, plants and installations in the fields, pipe lines and pumping stations	156,125,152.00 pesos
Materials on hand	31,812,976.00
Crude reserves	31,812,976.00
Other	78,823.00
Total	219,829,927.00 pesos

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[78] Silva Herzog, Petróleo Mexicano, 155.

From his total, Silva Herzog deducted 25,000,000 pesos due the Mexican government for fines and taxes and 25,000,000 pesos owed the workers for severance pay as a result of the broken labor contract, leaving only 169,829,927 pesos (47,174,978 U.S.) due the companies.[79]

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[79] Ibid.

The experts designated by the Mexican courts to evaluate

the properties fixed their value, including the 30,600,000 pesos paid Sinclair in 1940, at 233,878,185 pesos (64,966,162 U.S.).[80]

[80] Ibid., 157.

Standard Oil of New Jersey, using the 1940 exchange rate of 5.40 pesos per dollar, declared Mexico valued the properties at about forty million dollars and wished to assess severance wages, tax claims, and fines against that sum which reduced the indemnity to nothing.[81] A final estimate was by the American econo-

[81] Standard Oil of New Jersey, Reply to Mexico, 4. In regard to the Mexican government's deductions from the estimated sum due for the properties, it is amusing to note that during the period of great calculations the famous Mexican comic Cantinflas produced a skit on the subject in which at the finale the oil companies had to pay Mexico for the expropriated properties.

mist, Seymour Harris, who declared that the American oil properties alone represented direct investments of $42,000,000 (U.S.).[82]

[82] Seymour Harris (ed.), Economic Problems of Latin America, 380.

After the renewed diplomatic correspondence in 1940 between Mexico and the United States over the oil question and Mexico's rejection of the proposed arbitration, negotiations

continued. The Sinclair settlement seemed to indicate a satisfactory solution could be found and that fact, coupled with increasing tension on the international front, exerted strong pressure on both governments to arrive at a conclusion to the dispute. The result was improved relations between Mexico and the United States in 1941. Cárdenas had begun the change before he left the presidency in the fall of 1940, in part probably because of his personal support for American policy in opposition to the fascist states of Europe and in part likely because of Mexican dependence on American economic support after the German and Italian markets were lost.[83] Both Mexico and the United

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[83] Arthur P. Whitaker (ed.), Inter-American Affairs, 1941, An Annual Survey. No. 1, p. 67. See also "Mexico and Her Relation to American Defense," in Journal of Commerce and Commercial, CLXXXV, 41-42.

States undoubtedly were moved to co-operate more closely by the threat of war in both oceans in 1941, the United States in particular needing to make secure the Mexican flank. Mexican oil had assumed more importance, too, as potential military needs threatened to exceed American production. The Good Neighbor Policy was expanded broadly as the United States felt the need of support from Latin America in the face of imminent war with the fascist states.[84]

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[84] Bemis, Latin American Policy of the United States, 348; Hubert Herring, Mexico: The Making of a Nation, 76; and "Las

Pruebas de la Amistad," in El Excelsior, November 20, 1931, p. 4. The Mexican government even revised the law enforcing Article 27 in February, 1941. Avila Camacho reversed Cárdenas' principle of exclusive state development of petroleum wealth and requested the enactment of a new law opening participation to three groups: (1) government institutions granted concessions, (2) the federal oil organization, and (3) private individuals or companies furnishing capital for mixed corporations controlled by the government. Foreigners could participate in the third group if they operated as Mexican citizens and abandoned extra-territorial privilege. Stock issued by such corporations would have to go to fully identified individuals accepting the terms listed. See Kirk, Covering the Mexican Front, 183-184, and Avila Camacho, To the Second National Congress of the C.T.M. To the 1941 Graduating Class of Teachers. Speeches. National and International Problems Series No. 3, p. 11. See also The Mining Laws of Mexico; Luis Muñoz (ed.), Código Civil Prontuario 1946; and "Reglamento de la Ley del Petróleo de 26 de Noviembre de 1940," in Boletín de Minas y Petróleo, Octubre de 1939 á Junio de 1941, pp. 242.

The first fruit of the rapproachment was the agreement of April, 1941, by which Mexico permitted American military planes to fly over Mexican territory and to utilize Mexican airfields for landing and servicing on the way to Panama.[85] Finally on

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[85] Whitaker (ed.), Inter-American Affairs, 1941: An Annual Survey, No. 1, p. 68, and Bemis, The Latin American Policy of the United States, 348.

November 19, 1941, came the announcement of the comprehensive settlement of claims,[86] which also provided for the evaluation

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[86] See above, Chapter VI.

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of the expropriated oil properties. The agreement was the re-

sult of negotiations carried on between the United States and President Avila Camacho and Ezequiel Padilla since November, 1940, according to El Excelsior.[87] It provided:[88]

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[87] "The Conflict Created by the Petroleum Expropriation Has Also Been Settled," in El Excelsior, November 20, 1941, p. 1.

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1. Each of the Governments will appoint, within the thirty days following the date of this note, an expert whose duty it shall be to determine the just compensation to be paid the nationals of the United States of America whose properties, rights or interests in the petroleum industry in the United Mexican States were affected to their detriment by acts of the Government of Mexico subsequent to March 17, 1938. Nevertheless, the provisions of this note do not apply to properties, rights, or interests which may have been included in any arrangement ... concluded between their owners ... and the Government of the United Mexican States....

6. The experts shall have full access to all records in the possession of the Mexican Government, as well as to the oil fields, lands, installations, offices, buildings, and any other properties whatsoever involved directly or indirectly in the evaluation....

9. The experts are required to examine and appraise all the proofs obtained directly or that may be submitted to them. They shall not take into account any specific evidence submitted ex parte when the person or institution submitting it refused in connection with it to furnish pertinent complementary evidence....

10. The experts shall complete their work within five months from the date of this note....

11. The experts shall fix equitable interest upon the indemnity compensation they find due; this interest will apply from the date fixed by these experts up to the time of payment.

12. Both Governments agree to consider unappealable the joint report resulting from the agreement of the experts, and in consequence, as definitive, the compensation and interest fixed in such report....

16. The two Governments shall agree upon the manner and conditions of payment of the compensation found to be due to the affected United States nationals.... Such payment shall, however, be completed within a period of not more than seven years.

> The Government of Mexico will deliver today, as a deposit, to the Government of the United States of America, the sum of $9,000,000 (nine million dollars), United States currency, which sum shall be applied immediately on account of the compensation determined to be due.
> 17. The Government of the United States will facilitate negotiations between the Government of Mexico and representatives of such oil companies as may be interested in an agreement for the marketing of exports of Mexican petroleum products.

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[88] Executive Agreement Series 234. Expropriation of Petroleum Properties. Agreement between the United States of America and Mexico Effected by Exchange of Notes Signed November 19, 1941, pp. 4-7.

Secretario de Relaciones Exteriores Padilla explained to the Mexican Senate the meaning of the settlement in his opinion on November 25, 1941:[89]

> The long diplomatic contentions over damages received mutually over a period of almost a century have now been satisfactorily resolved. The problem of the oil expropriation if it has not been solved radically, at least a road to a peaceful, just and equitable solution is offered. Thanks to the system agreed on, the oil companies far from finding their interests in fighting the constructive work of the Mexican nation will find true advantages in cooperating with the process of oil exploitation in Mexico.... Along with these agreements we have also concluded with the United States agreements on the purchase of silver and on the estabilization of the peso and on a loan for the building of roads.... What causes have influenced such a happy improvement in the relations of the United States and Mexico? It is of great importance to understand these causes because a change in the international policy of the United States affects not only Mexico but all America. For the dictates of force have been substituted by the present statesmen of the United States, the rule of the good neighbor.... The understanding which has just been concluded gives irrefutable proof, not of a diplomatic triumph for Mexico, but a triumph for the moral solidarity of America.... This is not the hour for commercial equations; it is the hour of moral equations; and much less is it the hour of Shylock; it is the hour of Morelos, of Bolivar, of Lincoln, of Morazan, and of Morti.... The

> moral value of the agreements we have just concluded, the United States and Mexico, is fundamentally that which responds to the new spirit of America, of unity and cooperation.

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[89] Speech of Padilla to the Senate of Mexico on November 25, 1941, concerning agreements with the United States, printed in Ezequiel Padilla, Los Convenios con los Estados Unidos ante el Senado Mexicano. Serie Problemas Nacionales e Internacionales. No. 9, pp. 10-16. Padilla's views on Mexican-American cooperation received an interesting expositon in Coke R. Stevenson and Ezequiel Padilla, La Politica del Buen Vecino y los Mexicanos en Texas: Serie de Problemas Nacionales e Internacionales No. 17.

Padilla further declared shortly after the announcement of the agreements that they represented the achievement of unity between the United States and Mexico in defense of democratic institutions on North America.[90] El Excelsior declared edi-

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[90] "New Era of Friendship between Mexico and the United States," in El Excelsior, November 20, 1941, p. 1.

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torially that the negotiations culminated in one of the most inspired acts of Mexico's international history, that as a result of them reasons disappeared for uneasiness and fear in Mexican-American relations, and that true friendship could arise as a consequence between Mexico and the United States.[91] Ernesto

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[91] "Las Pruebas de la Amistad," in El Excelsior, November 20, 1941, p. 4.

Enríquez felt that the treaty ended the question of regulations concerning private property within a country by determining that internal law, not foreign concepts, would govern property rights of foreigners in Mexico.[92] Lázaro Cárdenas congratulated

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[92]Ernesto Enríquez, Evolución del Derecho Internacional Mexicano en los Ultimos Treinta Años (1912-1942), p. 22.

Avila Camacho on having arrived at a satisfactory arrangement of the problems pending between Mexico and the United States. Two Mexican senators declared that the agreement demonstrated Mexico's will to comply with its obligations and that Mexico should always be aligned with the United States in foreign affairs. The Oil Workers' Union stated that the Americas had reaffirmed in a historic move the democratic doctrines in contrast to Europe's violence.[93] Novedades declared that the settlement

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[93]"Favorable Reaction Here and Abroad to the Agreement between Mexico and the United States," in El Popular, November 22, 1941, p. 1.

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showed the United States knew how to evalue the sincere friendship of Mexicans and the support of Mexico for the international policies of the United States. In addition to a great moral victory, Mexico acquired material advantages, said Novedades, and the fundamental problem in the oil controversy was totally eliminated as Mexico's right to expropriate foreign-owned pro-

perty for public utility was recognized.[94]

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[94] "Mexico and the United States," in Novedades, November 22, 1941, p. 4.

Not all Mexicans found the agreements so palatable, however. La Nación noted that on the surface Mexico appeared to have won a victory; but it pointed out that Mexico already had evaluated the properties in her courts and found it puzzling that the United States should participate in a new calculation of their worth. La Nación observed that Mexico had to settle the dispute because its continuation prevented her economic development, stopped capital investment, threatened peaceful relations with the United States, and kept Mexico out of the oil markets of the world. However, it found Mexico's necessity shameful rather than glorious.[95] Aguiles Elorduy fulminated in

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[95] "Mexico's Gain and Loss in the Arrangements with the United States," in La Nación, November 29, 1941, n.p.

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a series of articles written for El Excelsior that the oil companies, as Mexican corporations, should have been forced to accept the unilateral Mexican evaluation of 178,000,000 pesos. He found it humiliating that a nine million dollar down-payment should have been demanded of Mexico before the debt was even measured and more humiliating that a foreign government should be permitted to intervene between the Mexican government and

Mexican corporations.[96]

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[96] Aguiles Elorduy, "The Latest Agreements," in El Excelsior, December 15, 1941, p. 4.

From the standpoint of hemispheric solidarity the settlement produced notable results, however. At Rio de Janeiro on January 15, 1942, Ezequiel Padilla, head of the Mexican delegation, declared to the assembled representatives of Pan-America:[97]

> The men who have died gloriously at Wake and in the Philippines, wrapped in this same banner which we see from here interlaced with the twenty flags of the American continents, like a symbol of indissoluble unity, have not fallen only to defend the honor and sovereignty of the United States, have fallen to defend human freedom and the free destiny of America.

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[97] First speech of Ezequiel Padilla before the Pan-American Congress in Rio de Janeiro, January 15, 1942, printed in Ezequiel Padilla, Tres Discursos en Rio de Janeiro. Serie Problemas Nacionales e Internacionales. No. 11, p. 10. The contrast with 1917 need scarcely be mentioned. See also Avila Camacho, México ante la Situación Internacional. Serie Problemas Nacionales e Internacionales No. 6, p. 14, on Mexican-American harmony of interests internationally.

Ambassador Castillo Nájera declared in a speech at George Washington University, January 13, 1942:[98]

> Understanding between the two countries is a reality now that the masses are aware that ideals must supercede the interests of private individuals.... The good neighbor policy of Franklin Delano Roosevelt refers not only to a geographical union of countries but to the communion of spirits. Thanks to it each of the countries of the hemisphere sees itself as the neighbor of the other and is willing to strengthen the family of American nations to pave the way for the future integration of all the nations

> of the world. Now for the first time in our history our ideals and interest coincide with those of the United States.

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[98] Francisco Castillo Nájera, Future Relations between Mexico and the United States. Address at George Washington University, January 13, 1942, pp. 3-4; 18-19.

The Secretaría de Relaciones Exteriores felt that in the settlement:[99]

> Nothing less but a past of distrust, suspicion, and constant trouble with our powerful northern neighbor is being bolted. And that political course which, let us recognize it, has brought us many incidents and difficulties is now substituted by another system of greater congruity of a decided friendship of reciprocal aid in various kinds of problems as has never been attempted in our diplomatic history.

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[99] Department of State for Foreign Affairs, Bureau of International News Service, The Continental Doctrine in the Mexican Senate. National and International Problems Series No. 4, p.

Finally, one of the leading constituyentes of 1917 declared that it was time that every citizen of each one of the American republics realized that the Good Neighbor Policy denoted that damage done to a single republic in America was damage done to all.[100]

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[100] Félix F. Palavicini, Roosevelt, el Demócrata: Apuntes Biográficos, 68-69.

The agreements of November 19, 1941, of course merely pro-

vided, in respect to the oil expropriations, machinery for evaluating the properties by the appointment of two experts to make the estimate of their values. The two experts were named almost at once, Morris L. Cook, a consulting engineer, representing the United States, and Manuel J. Zevada, engineer and Undersecretary of the Departamento de la Economía Nacional, representing Mexico.[101] Although Standard Oil of New Jersey

[101] Brooks, Peace, Plenty, and Petroleum, 146.

had recommended valuation of the properties by independent oil experts in 1940,[102] the oil companies apparently were reluctant

[102] Standard Oil of New Jersey, Present Status, 97.

to co-operate in the arrangements for estimating the value of their properties. Not until late January, 1942, did they agree to send representatives to consult with Cook, who had spent three weeks in Mexico and had declared that after consulting Mexican officials he felt sure a meeting of minds was possible.[103]

[103] "The Beginning of an Arrangement," in Novedades, January 24, 1942, p. 1.

As one writer declared, by 1942 the oil companies knew their claims had to be sacrificed to the war effort.[104] Washington

[104] Strode, Timeless Mexico, 381.

was thought to be willing to accept whatever price the two experts agreed on, regardless of the protests of the oil companies.[105]

[105] "The Petroleum Companies Will Battle on Two Fronts," in El Excelsior, November 25, 1941, p. 1.

Cook worked in Mexico with Zevada in January-February, 1942, accompanied by nine assisting experts from the United States: Michael J. Bordner, Benjamin T. Brooks, Alexander Deussen, Hayden A. Dribble, Jackson C. Dickerman, Ralph R. Koul, William J. Hennitzer, O. C. Merrill, and Harlow S. Person.[106] Actual visits to the oil zone were made by Cook and

[106] "The Valuation of the Expropriated Petroleum Industry," in El Universal, March 4, 1942, p. 1.

the experts, and both negotiators used geologists, chemists, engineers, and other specialists who went into the fields to appraise properties.[107] After return trips to Washington by

[107] Ibid. See also Person, Mexican Oil, 68.

Cook for consultation, he and Zevada made their report to their

respective governments on April 17, 1942:[108]

To: Franklin Delano Roosevelt, President of the United States of America

Manuel Avila Camacho, President of the United Mexican States

Sirs: As provided in the exchange of notes dated November 19, 1941, between his Excellency, Cordell Hull, Secretary of State of the United States, and his Excellency, Francisco Castillo Nájera, Mexican Ambassador to the United States, the undersigned were appointed by our respective governments as experts authorized to determine according to "equity and justice" for purposes of indemnification the compensation to be paid the nationals of the United States of America whose properties, rights or interests in the petroleum industry were affected to their detriment by acts of the Government of Mexico subsequent to March 17, 1938, and in respect of which no settlement has heretofore been affected.

Expropriation, and the exercise of the right of eminent domain, under the respective Constitutions and Laws of Mexico and the United States, are a recognized feature of the sovereignty of all modern states.

We have surveyed the works and lands involved and studied the records of the properties, rights and interests appertaining thereto and have mutually agreed that their value, as of March 19, 1938, should be fixed, in the sum of 23.995.911.....dollars, covering all elements of tangible and intangible value, allocated as follows:

Standard of New Jersey Group	Dlls.	18.391.641
Huasteca Petroleum Company		
Mexican Petroleum Company		
Tuxpam Petroleum Company		
Tamiahua Petroleum Company		
Cía. Petrolera Ulises, S.A.		
Cía. Transcontinental de Petróleo, S.A.		
Cía. Petrolera Minerva, S.A.		
Standard Oil of California Group	Dlls.	3.589.158
California Standard Oil Company of Mexico, S.A.		
Richmond Petroleum Company		
Consolidated Oil Group	Dlls.	630.151
Consolidated Oil Company of Mexico, S.A.		
Cía. Franco Española, S.A.		
Cía. Petrolera Aldamas y Bravo, S.A.		

Sabalo Group	Dlls.	897.671
Sabalo Transportation Co.		
Cía. Petrolera "Clarita," S.A.		
Cía. Petrolera Cacalilao, S.A.		
Seaboard Group	Dlls.	487.370
International Petroleum Company		
Compañía Internacional de Petróleo y Oleoductos, S.A.		

Therefore, according to the said oil agreement of November 19, 1941, it is our joint judgement that:
First: The Government of the United Mexican States shall pay to the Government of the United States of America on behalf of the above mentioned claimants, the amount of Dlls. 23.995.991 ..... in accordance with the schedule of payments finally approved by the two governments.
Second: Before any payment is made on account of these awards the corporation affected shall deposit in escrow and, when final payment has been made, shall deliver to the Government of Mexico all documents and instruments of title pertaining to the expropriated properties.
Third: The Government of Mexico and each of the said claimants shall release each other respectively of all reciprocal claims that may still be pending against one another, with the exception of those of the Mexican Government against the companies for unpaid taxes and duties, as well as those based on payments legally made by the Mexican Government for the account of the said companies. The Mexican Government will assume liability for all private claims which may be instituted after this date by private individuals against these companies as a result of expropriation, but not for the private claims against these companies now pending before the Mexican Courts.
Fourth: Recommendation is hereby made that the amount determined be paid as follows: one-third on July 1, 1942, and the balance in five (5) equal annual installments, payable on July 1st. of each succeeding year.
Fifth: All balances as shown to be due these said claimants on the several dates prescribed shall bear interest at the rate of 3 per cent per year dating from March 18, 1938.

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108 Executive Agreement Series 419. Payment for Expropriated Petroleum Properties. Agreement between the United States of America and Mexico Effected by Exchange of Notes Signed at Washington September 25 and 29, 1943, and Joint Reports, 5-7.

The sum at which the expropriated properties were valued, $23,995,911 (U.S.) (124,778,737 pesos), was declared by one of the American expert's assistants to be larger than the valuation arrived at for surface properties alone; hence, apparently the companies received some compensation for imponderables.[109]

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[109] Person, Mexican Oil, 73.

Estimating the American share of the properties at 52%, the American companies would have received $25,711,100 (U.S.) even under the decision of the Mexican courts given in 1940, however. And interestingly enough, that was almost exactly the sum total Mexico paid for the whole American-owned properties when, by private negotiations, on April 17, 1942, she agreed to pay the companies not included in the general statement with the United States government (Compañía de Gas y Combustible "Imperio," S. A.; Compañía Mexicana de Oleoductos "Imperio," S.A.; Gulf Coast Corporation; Southern Fuel and Refining Company; Compañía Petrolera del Agwi, S.A.; Mexican Atlas Petroleum Company, S.A.; and Moctezuma Terminal Company, S.A.) the sum of $1,100,000 (U.S.) for their properties.[110] Thus, declared President Avila Cama-

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[110] Secretaría de Gobernación, Seis Años de Actividad Nacional, 314.

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cho, was consummated the most important step taken by Mexico

on the road to economic freedom.[111]

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[111] Avila Camacho, Un Año de Política, 22.

Accord on the actual method of payment of the debt was not reached until September, 1943, when Mexico and the United States agreed that:[112]

> 1. In accordance with the Joint Report submitted on April 17, 1942, by Messrs. Morris L. Cook and Manuel J. Zevada, experts designated by the respective governments pursuant to the Agreement concluded on November 19, 1941, the Government of Mexico shall pay to the Government of the United States of America the sum of $23,995,991.00, United States currency, plus interest, computed in conformity with Joint Report, at three percentum per annum from March 18, 1938.
> 2. There shall be credited against the total sum of $27,981,955.20 due on September 30, 1943, the sum of $9,000,000 heretofore deposited with the Government of the United States of America by the Government of Mexico. The sum of $3,796,391.04, representing one-fifth of the balance, shall be paid at Washington on September 30, 1943, and the remaining sum of $15,185,564.16, plus interest, shall be paid at Washington in four equal annual installments of $4,185,327.45 on the thirtieth day of September of each of the years 1944 to 1947 inclusive.
> 3. The total sums to be so paid by the Government of Mexico, which shall not be subject to deduction on account of taxes or claims of any character, shall be in full and final settlement and liquidation of all claims against the Government of Mexico on behalf of the respective companies named in the Joint Report of April 17, 1942, and also on behalf of the following companies not named in the said Joint Report:
>
> J. A. Brown, Sen. C.
> Green y Cía.
> Doheny, Bridges y Cía.
> Cía. Naviera Transportadera, S.A.
> Cía. Petrolera Titenia, S.A. and
> Cía. Petrolera Mercedes, S.A.

4. The Government of Mexico releases all of the companies included in the preceding paragraph from all obligations which it may be entitled to exact from them, including unpaid taxes and fiscal charges and payments which the Government of Mexico has legally made or undertaken to make for the account of such companies. The Government of Mexico also assumes responsibility for the satisfaction and settlement of all claims of a private character against such companies--including labor claims which have been, or may be, determined to be valid by Mexican administrative or judicial tribunals.... The Government of Mexico agrees ... to substitute itself for any of the companies in actions which have been, or may be, instituted against them in such tribunals.
5. Before any payment is made by the Government of the United States to a company included in this agreement, such company shall deposit with the Department of State, for delivery to the Government of Mexico upon the payment by the latter of the final annual installment payable under this agreement, such documents and instruments of title as it may have in its possession evidencing ownership of the affected properties, rights, or interests.

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[112] Executive Agreement Series 419. Payment for Expropriated Petroleum Properties. Agreement between the United States of America and Mexico Effected by Exchange of Notes Signed at Washington September 25 and 29, 1943, and Joint Report, 1-2. It should be noted that the agreement relieved the companies of any charges of any nature against the indemnity they received, in contrast to the original settlement which held those companies still responsible for unpaid taxes.

The end of so long a dispute was greeted, appropriately, more philosophically than chauvinistically by both countries as might have been expected after a generation of disagreement on fundamentals. One American commentator declared that, "The people of the United States and the people of Mexico have learned mutuality in a stern school. Hereafter, under a beneficent Providence, the lessor will never be forgotten."[113] A Mexican

commentator closed the story:[114]

> With the agreement that fixes the indemnifications that must be paid the oil companies, there has been written one of the most interesting chapters of our economic as well as our national history. There culminates with it a conception of independence that is not limited by the maintenance of the territorial extension ... but which is now completed without affecting a single particle of our national sovereignty.

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[114] "Mexico Settles Dispute with Petroleum Companies," in Mexico News, II, 1. In 1943, 1944, and 1945 Mexico moved toward a settlement with Britain and Holland similar to that made with the United States, and finally announced in February, 1946, that notes establishing initial bases for liquidation of the claims of Britain and Holland had been exchanged. See Avila Camacho, La Política Internacional (1943-1944). Serie Problemas Nacionales e Internacionales. No. 20, p. 10; Avila Camacho, Nuestra Política Exterior (1944-1945), p. 8; and Secretaría de Gobernación, Seis Años de Actividad Nacional, 314.

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